



northern  
beaches  
council

# AGENDA

## DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Northern Beaches Council, Dee Why on

**TUESDAY 24 APRIL 2018**

A handwritten signature in black ink, appearing to read 'Ashleigh Sherry'.

**Ashleigh Sherry**  
**Manager Business System and Administration**



**Agenda for a Meeting of the Development Determination Panel  
to be held on Tuesday 24 April 2018  
in the Walamai Room, Northern Beaches Council, Dee Why**

<b>1.0</b>	<b>APOLOGIES &amp; DECLARATIONS OF PECUNIARY INTEREST</b>	
<b>2.0</b>	<b>MINUTES OF PREVIOUS MEETING</b>	
2.1	Minutes of Development Determination Panel held 11 April 2018	
<b>3.0</b>	<b>DEVELOPMENT DETERMINATION PANEL REPORTS .....</b>	<b>2</b>
3.1	DA2018/0030 - 10 Peronne Avenue CLONTARF - Alterations and additions to the existing dwelling house. ....	2
3.2	DA2017/1197 - 4 Marinna Road ELANORA HEIGHTS - Demolition of existing dwelling house and construction of new dwelling house and new swimming pool.....	28
3.3	N0595/16 - 65 Grandview Drive NEWPORT - Alterations and additions to an existing dwelling.....	73



## **2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

### **2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 11 APRIL 2018**

---

#### **RECOMMENDATION**

That the Panel note that the Minutes of the Development Determination Panel held 11 April 2018 were approved by all Panel Members and have been posted on Council's website.

---

### 3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

#### ITEM 3.1

DA2018/0030 - 10 PERONNE AVENUE CLONTARF -  
ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING  
HOUSE.

REPORTING MANAGER Rodney Piggott

TRIM FILE REF 2018/237529

ATTACHMENTS  
1 [↓ Assessment Report](#)  
2 [↓ Site and Elevation Plans](#)

#### PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the building height standard.

---

#### RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0030 for Alterations and additions to the existing dwelling house on land at Lot B DP 344469, 10 Peronne Avenue, CLONTARF, subject to the conditions outlined in the report.

---



**REPORT TO DEVELOPMENT DETERMINATION PANEL**

**Meeting held on 24 April 2018**

**10 Peronne Avenue Clontarf - Alterations and additions to the existing dwelling house.**

**DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>Application Number:</b>	DA2018/0030
<b>Responsible Officer:</b>	Adam Croft
<b>Land to be developed (Address):</b>	Lot B DP 344469, 10 Peronne Avenue CLONTARF NSW 2093
<b>Proposed Development:</b>	Alterations and additions to the existing dwelling house.
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Development Determination Panel
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Ben Cameron McMillan Carly Elise McMillan
<b>Applicant:</b>	Ben Cameron McMillan Carly Elise McMillan
<b>Application lodged:</b>	10/01/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	12/01/2018 to 30/01/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 210,000.00

**ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

DA2018/0030

Page 1 of 26



- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

#### **SUMMARY OF ASSESSMENT ISSUES**

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards  
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils  
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area  
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing  
 Manly Development Control Plan - 3.4.2 Privacy and Security  
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)  
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation  
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)  
 Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area

#### **SITE DESCRIPTION**

<b>Property Description:</b>	Lot B DP 344469 , 10 Peronne Avenue CLONTARF NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the eastern side of Peronne Avenue.</p> <p>The site is irregular in shape with a frontage of 15.99m along Peronne Avenue and a depth of 69.5m. The site has a surveyed area of 655.9m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a three-storey detached dwelling.</p> <p>The site slopes approximately 25.5m from rear (east) to front (west).</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p>

DA2018/0030

Page 2 of 26



Adjoining and surrounding development is characterised generally by multi-storey detached dwellings. The harbour foreshores and Clontarf Reserve are located in close proximity to the west and south-west of the subject site.

Map:



#### **SITE HISTORY**

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA0020/2004 - Part 1 - Alterations and additions to Dwelling - Approved 21 May 2004.

DA0020/2004 - Part 2 - Section 96 Modification to Alterations and additions to dwelling - Approved 12 April 2007.

DA0291/2006 - Erection of a new swimming pool - Approved 29 November 2006.

DA0421/2006 - Alterations and Additions to existing Dwelling including upper floor - Approved 6 February 2007.

#### **PROPOSED DEVELOPMENT IN DETAIL**

The proposal includes works as follows:

Garage Level:

- Removal of existing door

Level 1:

- Demolition of existing bathroom, new Bed 4 with extension  
DA2018/0030

Page 3 of 26



- Internal alterations including new walk-in robe and ensuite to master bedroom and refurbishment of existing bathroom
- Changes to windows and doors.

Level 2:

- Internal alterations to existing kitchen and laundry

Level 3:

- New front balcony with retractable louvres
- Internal alterations including demolition of internal wall to enlarge Rumpus
- Changes to existing roof
- Changes to windows and doors

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p>



Section 4.15 Matters for Consideration <sup>1</sup>	Comments
	<p>Clause 92 of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p>Clauses 93 and/or 94 of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

#### EXISTING USE RIGHTS



Existing Use Rights are not applicable to this application.

#### **NOTIFICATION & SUBMISSIONS RECEIVED**

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

#### **MEDIATION**

No requests for mediation have been made in relation to this application.

#### **REFERRALS**

<b>Internal Referral Body</b>	<b>Comments</b>
Landscape Officer	landscape shall be maintained to comply with Manly DCP 2013

#### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

#### **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

##### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

##### **Manly Local Environmental Plan 2013**

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with: aims of the LEP?	Yes

DA2018/0030

Page 6 of 26



zone objectives of the LEP?	Yes
-----------------------------	-----

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	12.31m	44.8%	No (See Clause 4.6)
Floor Space Ratio	0.4:1 262.36m <sup>2</sup>	0.36:1 237.23m <sup>2</sup>	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

**4.6 Exceptions to development standards**

The following assessment of the variation to Clause 4.3 Height of Buildings development standard has taken into consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.

Requirement:	8.5m
Proposed:	12.31m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	44.8%

The proposal must satisfy the objectives of 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

**Is the planning control in question a development standard?**

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the MLEP 2013 is a development standard.

**What are the underlying objectives of the development standard?**



The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

*a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

Comment:

The proposed roof extension is consistent with the existing dwelling and roof form and is not readily visible within the Peronne Avenue streetscape. There is no proposed increase to the RL of the roof and the height increase is a result of the topography of the site.

*b) to control the bulk and scale of buildings,*

Comment:

The proposed area non-compliance relates only to the Level 3 balcony and roof, which do not add any significant bulk to the dwelling.

*c) to minimise disruption to the following:*

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*

Comment:

The proposed development will result in no unreasonable impact on views to, from and between residential development and public spaces.

*d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*

Comment:

The proposed development will have no unreasonable overshadowing impacts on the subject site or adjoining properties. A full assessment of sunlight access and overshadowing is completed under Part 3 General Principles of Development.

*e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

Comment:

N/A



### What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

#### The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development retains the existing low density residential use.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

N/A

### Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(1) The objectives of this clause are as follows:

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.*

Comment:

The proposed non-compliance relates only to an unenclosed balcony structure.

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment:

The proposed non-compliance will result in no unreasonable streetscape or amenity impacts, as assessed under Part 3 General Principles of Development.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

DA2018/0030

Page 9 of 26



*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

The applicant's Clause 4.6 application provides the following justification:

*"The proposed roof extension is consistent with the prevailing building ridge height, no increase in height is proposed. Due to the topographic landscape of the site the upper level of the subject building is not visible from Peronne Ave and only partially visible from the upper level ramped access road, the proposed additions compliment the existing roof form & pitch maintaining the desired future character in the locality. The existing upper level due to the slope of the land currently exceeds the 8.5m height control.*

*The proposed roof extension is set well back from the front side boundaries. The additions compliment the existing roof pitch & form.*

*The proposed additions to upper floor roof will have no impact on loss of views to neighbouring properties. Existing view corridors will be maintained to harbour & foreshores. The proposed additions sit well behind subject & adjoining front setbacks. Properties to the rear of the site are positioned substantially higher than the subject site due to the topographic site controls.*

*The proposed non compliance has no effect upon both private open space & habitable rooms of adjoining dwellings, (Additional overshadowing only on roadway).*

*The existing upper level building height die to the topography of the site already exceeds the maximum height 8.5m as required. The proposed additions maintain existing ridge height.*

*The proposed additions have little or no impact in relation to the amenity of adjoining properties. Careful consideration has been undertaken with its relationship to adjoining properties maintaining existing view corridors, solar access and privacy."*

(4) Development consent must not be granted for development that contravenes a development standard unless:

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment:

The applicant's written request adequately addressed the matters required to be demonstrated by subclause (3).

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment:

DA2018/0030

Page 10 of 26



For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone in the MLEP 2013.

*(b) the concurrence of the Director-General has been obtained*

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may not be assumed for exceptions to development standards greater than 10% under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. As such, the application will be referred to the Development Determination Panel.

### 6.1 Acid sulfate soils

Clause 6.1 - 'Acid sulfate soils' requires Council to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. In this regard, development consent is required for the carrying out of works described on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

The site is located in an area identified as Acid Sulfate Soil Class 5, as indicated on Council's Acid Sulfate Soils Planning Map.

No significant excavation is included in the proposal.

### 6.9 Foreshore scenic protection area

The proposal is for minor alterations and additions consistent with the surrounding residential development. As such, the proposed development will have no unreasonable impact on visual aesthetic amenity or views to and from Sydney Harbour.

### Manly Development Control Plan

#### Built Form Controls

<b>Built Form Controls - Site Area: 655.9m<sup>2</sup></b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
4.1.2.1 Wall Height	Northern side: 8m	Balcony: 10.07m	No (See comment)
	Southern side: 8m	Balcony: 10.42m	No (See comment)
		Bed 4: 5.62m	Yes
4.1.2.2 Number of Storeys	2	4	No (See comment)
4.1.2.3 Roof Height	Height: 2.5m	1.48m	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	10.4m	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Northern side balcony: 3.36m	4.1m	Yes
	Southern side balcony: 3.47m	4.43m	Yes
	Southern side Bed 4: 1.87m	0.9m	No (See comment)

DA2018/0030

Page 11 of 26

4.1.4.4 Rear Setbacks	8m	39m	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area 393.54m <sup>2</sup>	56.9% 373.08m <sup>2</sup>	Existing
	Open space above ground 25% of total open space 93.27m <sup>2</sup>	22.06m <sup>2</sup>	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space 149.2m <sup>2</sup>	71.6% 267.26m <sup>2</sup>	Yes
4.1.5.3 Private Open Space	18m <sup>2</sup>	18m <sup>2</sup>	Yes

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	No	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

#### Detailed Assessment

##### 3.4.1 Sunlight Access and Overshadowing

###### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To provide equitable access to light and sunshine.*

###### Comment:



The proposed development will result in negligible overshadowing with minor impact on Clontarf Reserve at 9am and the front of the adjoining properties to the south at 12pm.

*Objective 2) To allow adequate sunlight to penetrate:*

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment:

The proposed development provides adequate sunlight access to the private open spaces and windows of the subject site and adjoining properties.

*Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:*

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

The proposed additions are minor and result in minimal additional overshadowing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

### **3.4.2 Privacy and Security**

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To minimise loss of privacy to adjacent and nearby development by:*

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

The proposed development is appropriately designed to minimise direct viewing and overlooking between the subject site and adjoining properties. The proposed Level 3 front balcony is orientated towards towards the harbour foreshores to access views and its usability is restricted by its size. The



proposed Level 3 northern windows W6 and W7 are highlight and the eastern window W8 faces the rear yard of the subject property with minimal overlooking of the adjoining properties. The southern side boundary-facing wall of the proposed Bed 4 contains no windows.

*Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.*

Comment:

The proposed development allows sufficient privacy and sunlight access to the subject site and adjoining properties.

*Objective 3) To encourage awareness of neighbourhood security.*

Comment:

The proposal provides additional opportunities for passive surveillance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

#### **4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)**

Description of non-compliance

The proposed number of storeys and northern and southern wall heights are non-compliant with the requirements of Clause 4.1.2. The proposed non-compliances are consistent with the objectives of LEP Clause 4.3, as assessed below.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*(1) The objectives of this clause are as follows:*

*(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*

Comment:

The non-compliances are a result of the proposed Level 3 balcony, which is consistent with the height and roof form of the existing dwelling and topography. The proposed works are not immediately visible within the streetscape.

*(b) to control the bulk and scale of buildings,*

Comment:

The proposed balcony is minor in scale and does not add any significant bulk to the dwelling.



(c) to minimise disruption to the following:

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),
- (iii) views between public spaces (including the harbour and foreshores),

Comment:

The proposed non-compliances will not unreasonably impact any views to, from or between residential development and public spaces.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposed non-compliance will result in no unreasonable overshadowing impacts.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

#### **4.1.4 Setbacks (front, side and rear) and Building Separation**

##### Description of non-compliance

The proposed Bed 4 southern wall is non-compliant with the side setback requirements of Clause 4.1.4.

##### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

##### Comment:

The proposed non-compliant wall is not visible within the streetscape.

*Objective 2) To ensure and enhance local amenity by:*

- *providing privacy;*

DA2018/0030

Page 15 of 26



- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposed wall contains no windows, will not cause any additional overshadowing and is not visible from the streetscape. As such, the proposed non-compliance will have no unreasonable impact in relation to privacy, sunlight access, views, streetscape character or traffic conditions.

*Objective 3) To promote flexibility in the siting of buildings.*

Comment:

The proposed setback non-compliance will result in no unreasonable streetscape or amenity impacts.

*Objective 4) To enhance and maintain natural features by:*

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposed development results in no reduction to calculable open space on the site and the proposed landscaped area is compliant.

*Objective 5) To assist in appropriate bush fire asset protection zones.*

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

#### **4.4.5 Earthworks (Excavation and Filling)**

No significant earthworks are proposed.



#### **5.4.1 Foreshore Scenic Protection Area**

The proposal is for minor alterations and additions consistent with the surrounding residential development. As such, the proposed development will have no unreasonable impact on visual aesthetic amenity or views to and from Sydney Harbour.

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

#### **POLICY CONTROLS**

##### **Manly Section 94 Development Contributions Plan**

S94 Contributions are not applicable to this application.

#### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

#### **RECOMMENDATION**

DA2018/0030

Page 17 of 26



THAT Council as the consent authority grant Development Consent to DA2018/0030 for Alterations and additions to the existing dwelling house. on land at Lot B DP 344469, 10 Peronne Avenue, CLONTARF, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

**1. Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A100 Site Analysis Plan	8 December 2017	Cad Draft P/L
A102 Garage Level & Level 1	8 December 2017	Cad Draft P/L
A103 Level 2 & Level 3	8 December 2017	Cad Draft P/L
A104 Elevations & Materials	10 January 2018	Cad Draft P/L
A105 Sections	8 December 2017	Cad Draft P/L

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Preliminary Geotechnical Report	1 February 2018	D. Katauskas Consulting Geotechnical Engineer
Preliminary Geotechnical Report	9 February 2018	D. Katauskas Consulting Geotechnical Engineer

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

**2. Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments



- specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)



3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is



- dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;  
  
Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.



An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

6. **Tree and vegetation protection**

- a) Existing trees and vegetation shall be retained as follows:
  - i) all trees and vegetation not included for removal on the approved plans, excluding exempt trees under the relevant planning instruments or legislation.
  - ii) trees and vegetation located on adjoining properties
  - iii) all road reserve trees and vegetation
- b) Tree protection shall be undertaken as follows:
  - i) all tree protection shall be in accordance with the recommendations provided within the approved Aboricultural Impact Assessment report (as applicable) and AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4
  - ii) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees
  - iii) all tree protection measures, including fencing, are to be in place prior to the commencement of works
  - iv) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.
  - v) no tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site
  - vi) all structures are to bridge tree roots greater than 50mm diameter unless directed a qualified Arborist on site



vii) should either or both v) and vi) occur during site establishment and construction works, details shall be submitted by the Arborist to the Certifying Authority.

*Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites, and protect the existing environmental amenity. (3LD01)*









**REPORT TO DEVELOPMENT DETERMINATION PANEL**

Meeting held on 24 April 2018

4 Marinna Road Elanora Heights - Demolition of existing dwelling house and construction of new dwelling house and new swimming pool

**DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>Application Number:</b>	DA2017/1197
<b>Responsible Officer:</b>	Tyson Ek-Moller
<b>Land to be developed (Address):</b>	Lot 70 DP 25329, 4 Marinna Road ELANORA HEIGHTS NSW 2101
<b>Proposed Development:</b>	Demolition of existing dwelling house and construction of new dwelling house and new swimming pool
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	
<b>Consent Authority:</b>	Development Determination Panel
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Tijana Papandrea
<b>Applicant:</b>	Tijana Papandrea
<b>Application lodged:</b>	13/12/2017
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	21/12/2017 to 29/01/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	3
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 1,091,435.00

**ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

DA2017/1197

Page 1 of 37



- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

#### **SUMMARY OF ASSESSMENT ISSUES**

Pittwater Local Environmental Plan 2014 - Zone R2 Low Density Residential  
 Pittwater Local Environmental Plan 2014 - 4.3 Height of buildings  
 Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards  
 Pittwater Local Environmental Plan 2014 - 5.4 Controls relating to miscellaneous permissible uses  
 Pittwater 21 Development Control Plan - 2014 - A4.5 Elanora Heights Locality  
 Pittwater 21 Development Control Plan - 2014 - C1.3 View Sharing  
 Pittwater 21 Development Control Plan - 2014 - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - 2014 - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - 2014 - C1.7 Private Open Space  
 Pittwater 21 Development Control Plan - 2014 - D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)  
 Pittwater 21 Development Control Plan - 2014 - D5.7 Building envelope (Excluding Elanora Heights Village Centre)  
 Pittwater 21 Development Control Plan - 2014 - D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)

#### **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 70 DP 25329 , 4 Marinna Road ELANORA HEIGHTS NSW 2101
<b>Detailed Site Description:</b>	The subject site is identified as 4 Marinna Road, Elanora Heights (Lot 70 DP 25329). Aside from a slightly angled front boundary, the site is otherwise a regularly-shaped allotment; the primary boundary of which is oriented towards the southeast and adjoins the Marinna Road road reserve while all other boundaries adjoin other residential allotments. The subject site contains a two storey dwelling house, two sheds and landscaped areas. The subject site has an area of 918.6m <sup>2</sup> (based on submitted survey information) and is moderately sloped, with a rear-to-front fall of approximately 4.2 metres between its highest and lowest points.



The subject site is located within an R2 Low Density Residential zone, with all boundaries adjoining R2-zoned areas. A number of zone boundaries are located within the surrounding area as follows:

- RE1 Public Recreation zones are located approximately 25m northwest, 180m southwest and 195m northwest of the of the subject site at their nearest respective points.
- An E4 Environmental Living zone is broadly situated west of the subject site, and is approximately 65m away at its nearest point.
- A B1 Neighbourhood Centre zone is located approximately 210m southeast of the subject site at its nearest point.

The site is affected by Class 5 Acid Sulphate Soils, though no other hazards and/or notable affectations have been identified; no easements or restrictions have been identified which burden the subject site. The subject site does not contain a heritage item nor is it within a heritage conservation area, and there are no heritage items within the immediate vicinity.

Development within surrounding residential-zoned areas consists predominately of detached dwelling houses and associated structures (outbuildings, swimming pools, etc.)

A site inspection was undertaken by the assessing officer on 27 February 2018; the layout of the site was consistent with the plans and no significant issues were identified.

Map:



DA2017/1197

Page 3 of 37



## SITE HISTORY

### Site history:

- 13/12/2017:  
Subject Development Application lodged

### Application history:

- 13/12/2017  
Subject Development Application lodged
- 27/02/2018 Site inspection undertaken
- 26/03/2018 Additional information received (survey and height clarification information).
- 27/03/2018 Site inspection of adjoining site undertaken.

## PROPOSED DEVELOPMENT IN DETAIL

The subject development application seeks consent for the demolition of existing structures on the site and the construction of a three storey detached dwelling house, a swimming pool and landscaping works (including a playground area within the rear setback) and associated engineering works.

The proposed layout of the dwelling is as follows:

- The lower ground floor would contain a large garage and storage/workshop areas.
- The ground floor would predominately contain living areas, a study and guest bedroom.
- The first floor would contain four bedrooms and two bathrooms.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the	Division 8A of the EP&A Regulation 2000 requires the

Section 79C 'Matters for Consideration'	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent..</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the DA2017/1197	The site is considered suitable for the proposed Page 5 of 37



Section 79C 'Matters for Consideration'	Comments
site for the development	development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

### EXISTING USE RIGHTS

### NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Ms Alison Veronica Briggs	71 A Elanora Road ELANORA HEIGHTS NSW 2101
Mr Michael Fendick Sheriff	5 Kalang Road ELANORA HEIGHTS NSW 2101
Mr Rade Bogunovic	6 Marinna Road ELANORA HEIGHTS NSW 2101

As a result of notification, three (3) submissions were received. The addresses of the submissions are as follows:

- 6 Marinna Road, Elanora Heights (the site adjoining the subject site's northeast side boundary)
- 71A Elanora Road, Elanora Heights (the site adjoining the far southwest side boundary of the subject site)
- 5 Kalang Road, Elanora Heights (the site adjoining the subject site's rear boundary).

The following issues were raised in the submissions and each have been addressed below:

- Visual privacy (both to the side and rear of the subject site)
- Water runoff
- View loss
- Noise (associated with plant equipment for the proposed swimming pool)
- Noise (associated with demolition and construction works)
- Noise (created by residents within the subject site)
- Timing of construction works
- Replacement of an adjoining boundary fence

The matters raised within the submissions are addressed as follows:

#### Visual privacy

Refer to the assessment of Part C1.5 of Pittwater 21 DCP below.



**Water runoff**

The proposed stormwater arrangements have been assessed by Council's Development Engineers and are considered to be satisfactory. Subject to conditions, the proposed development would provide a sufficient amount of landscaped/pervious area that would satisfy outcomes relating to the provision of soft surfaces that would minimise runoff.

**View loss**

Refer to the assessment of Section C1.3 of Pittwater 21 DCP below.

**Noise**

The placement and design of any plant equipment on the site would be subject to recommended conditions of consent to minimise acoustic impacts on adjoining sites. Demolition and construction activities would be subject to recommended conditions of consent to minimise impacts on adjoining sites. The proposal is for a residential dwelling, which is typically a land use that is not expected to adversely affect the amenity of the surrounding residential area. The the behavior and activities of individuals on the site are not capable of being assessed and/or conditioned.

**Timing of construction works**

In the event that consent is granted, the applicant would have five years to commence work pursuant to Section 4.51(1) (formerly S95(1)) of the *Environmental Planning and Assessment Act 1979*. While conditions of consent would require the notification of surrounding residences for certain development activities, Council is therefore unable to stipulate the timing of any works during this period.

**Boundary fencing**

The replacement of a boundary fence would be a civil matter between the owners of relevant properties.

**MEDIATION**

**REFERRALS**

Internal Referral Body	Comments
Landscape Officer	<p>The landscape proposal is acceptable subject to the inclusion of landscape treatment to satisfy Pittwater DCP21, as required by the following conditions:</p> <p><u>Protection of Existing Vegetation</u> Tree protection fencing at the commencement of works shall be erected to protect adjoining trees listed in the Aboricultural Impact Assessment, including trees 3, 4, 5, 6, and 7. Tree protection fencing shall be installed according the section 4 and section 5 of the Aboricultural Impact Assessment report.</p> <p>Details shall be submitted to the principal certifying authority at commencement of works that the fencing is installed prior to demolition works.</p> <p>Reason: in accordance with C1.1 Landscaping</p> <p><u>Tree Planting</u> At least 2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be planted of sufficient scale to immediately add to the</p>

DA2017/1197

Page 7 of 37



Internal Referral Body	Comments
	<p>tree canopy of Pittwater and soften the built form. Canopy trees shall be capable of reaching a minimum of 13 metres at maturity, and shall be planted at 75 litre size.</p> <p>Reason: in accordance with C1.1 Landscaping</p> <p><u>Screen boundary planting</u> Screen shrub or small tree planting shall be provided to the rear setback to achieve a minimum of 3 metres at maturity along the north, east and west boundaries. Shrub planting shall be planted at 25 litre size and shall be spaced at 1 metre centres.</p> <p>Reason: to ensure the open space is screened to provide privacy to adjoining properties in accordance with C1.5 Visual privacy and to soften the built form of development to satisfy C1.1 Landscaping.</p> <p><u>Landscaped front setback</u> The front setback shall incorporate 2 canopy trees as required by the DCP. Additionally the landscape treatment shall consist of shrub planting along all site boundaries, capable of achieving a minimum of 3 metres at maturity. Shrub planting shall be planted at 25 litre size and shall be spaced at 1 metre centres.</p> <p>Reason: to soften and reduce the visual impact of the built form from the streetscape, and ensure the built form is secondary to landscaping and vegetation, to satisfy D5.1 Character as viewed from a Public Place.</p>
NECC (Development Engineering)	<p>I have reviewed all relevant Development Engineering control of Council's DCP. The proposed new access is acceptable. A stormwater management in accordance with B 5.7 control of the DCP has been recommended as part of the conditions of development consent.</p> <p>No Development Engineering objection is raised to the development subject to conditions.</p>

#### **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the



application hereunder.

**State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

**SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time. There is no evidence to indicate that the subject site has been exposed to activities that would result in land contamination. Further to the site review, the site inspection did not indicate any signs of contamination. No further consideration is therefore required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the proposed residential land use.

**SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 871645S\_03, dated 27 November 2017). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0002061992-02, dated 27 November 2017).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	40	50

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

**SEPP (Infrastructure) 2007**

Ausgrid

The provisions of Clause 45 of the SEPP are not applicable as the site is not:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Other provisions of the SEPP are not applicable to the subject application.

**Pittwater Local Environmental Plan 2014**



Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:				N/A
Minimum subdivision lot size for community title schemes				N/A
Minimum lot sizes for dual occupancies				N/A
Rural Subdivision:				N/A
Minimum subdivision lot size for strata plan schemes in certain rural, residential and environment protection zones				N/A
Height of Buildings:	8.5m	8.5m		YES
Floor Space Ratio				N/A
Density controls for certain residential accommodation				N/A

The proposed height of the building would be a 1.2% variation to the standard. A request to vary the standard has not been received. Due to the small breach, a condition is recommended that would limit the height to a level that would comply with the standard; refer to the assessment of Cl. 4.3 of PLEP 2014 below.

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	N/A
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Detailed Assessment

**Zone R2 Low Density Residential**

The proposed development, would be most appropriately defined as "residential accommodation" and



more specifically a "dwelling house".

Dwelling houses are a form of development that is permissible within the R2 zone under PLEP 2014.

#### 4.3 Height of buildings

Based on original survey information, the plans originally proposed a height of 8.67m. Following the submission of amended information (which included an internal survey plan), the plans propose a building height of 8.51 metres. A request to vary the development standard has not been provided.

The proposed breach of the height standard is relatively minor; it is therefore recommended that a condition be applied so that the maximum ridge height of the roof does not exceed RL 95.55 (i.e. a maximum of 8.5m above the respective and existing floor level of RL 86.04). While the condition would not specify how the amendments could be made, it is expected that compliance with the standard could be achieved through changes to the roof pitch, ceiling levels, and/or the "mechanical zone" between the ground and first floors.

**Note:** The height assessment does not include the solar panels; these have been excluded from the height assessment in accordance with exclusions contained within the standard instrument LEP definition of "building height".

#### 4.6 Exceptions to development standards

None proposed. As indicated, the plans propose a small breach of the height limit; a condition is recommended so that the dwelling design is modified to satisfy the height standard.

#### 5.4 Controls relating to miscellaneous permissible uses

The lower ground floor plans indicate that a "store/workshop" area is proposed with a floor area of more than 50m<sup>2</sup>. While a home business or occupation is not proposed (noting that these uses do not require consent within the R2 zone under PLEP 2014), a condition is recommended that would limit any such activity to a maximum of 50m<sup>2</sup> to ensure compliance with the standard.

#### Pittwater 21 Development Control Plan - 2014

##### Built Form Controls

Yes

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m or prevalent building line, whichever is greater	6.5m		Yes
Rear building line	6.5m	Minimum 17.1m		Yes
Side building line	2.5m one side	Northeast: 1m		Yes
	1m the other side	Southwest: Dwelling: 2.5m (Swimming pool: 1.7m)		Yes
Building envelope	45 degrees from point 3.5m above boundary	Outside envelope		No
	45 degrees from point 3.5m	Outside envelope		No

DA2017/1197

Page 11 of 37



	above boundary			
Landscaped area	50%	428m <sup>2</sup> , or 46.6%	6.8%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.5 Elanora Heights Locality	No	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	N/A	N/A
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.5 Off-Street Vehicle Parking Requirements - Low Density Residential (Amended 14/11/15 See B6.3)	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	N/A	N/A
C1.12 Waste and Recycling Facilities	Yes	Yes

DA2017/1197

Page 12 of 37

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	N/A	N/A
C1.17 Swimming Pool Safety	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	N/A	N/A
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	N/A	N/A
C1.25 Plant, Equipment Boxes and Lift Over-Run	N/A	N/A
D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.2 Scenic protection - General	Yes	Yes
D5.3 Building colours and materials (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.5 Front building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.6 Side and rear building line (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.7 Building envelope (Excluding Elanora Heights Village Centre)	No	Yes
D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)	No	Yes
D5.11 Fences - General (Excluding Elanora Heights Village Centre)	Yes	Yes
D5.13 Construction, Retaining walls, terracing and undercroft areas (Excluding Elanora Heights Village Centre)	Yes	Yes

#### Detailed Assessment

#### **A4.5 Elanora Heights Locality**

Where applicable, the proposed development would mostly satisfy the desired character requirements of the Elanora Heights locality. The proposal would not however satisfy all the desired characteristic as it would be a three storey structure which is inconsistent with the two storey characteristic that is sought. It is however recognised that such an inconsistency is a result of the sloping topography of the area and previous modifications to the site.

Despite being inconsistent with the future desired character of the area, the proposal is relatively consistent with the existing character of the area, as there are a number of other dwellings which surround the subject site (including 14 Marinna Road, 18 Marinna Road and 5 Kalang Road) that are more than two storeys in any one place. While they are two storey structures, a number of other dwellings at 5 Marinna Road, 6 Marinna Road, 12 Marinna Road and 12A Marinna Road that are similar to the proposed development in terms of height, bulk and scale. The proposed development would therefore be relatively consistent with development within the surrounding area. The inconsistency with the desired character requirement is therefore considered to be acceptable.

#### **C1.3 View Sharing**

As indicated within the site description section of this report, both the subject site and surrounding area



reside on a slope that falls in an easterly direction. Following the receipt of a submission from the owners of 5 Kalang Road, a site inspection was undertaken (note: the other submissions did not raise view loss as an issue, therefore similar inspections were not undertaken at those sites). It was considered likely that due to the topography of the area and the form of surrounding development, some dwellings on surrounding sites may have views of Pittwater and associated foreshore areas that could be affected by the proposed development.

Part C1.3 (View Sharing) of Pittwater 21 DCP requires that:

- All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties;
- The proposal must demonstrate that view sharing is achieved through the application of the Land and Environment Court's planning principles for view sharing;
- Where a view may be obstructed, built structures within the setback areas are to maximise visual access through the structure e.g. by the provision of an open structure or transparent building materials; and
- Views are not to be obtained at the expense of native vegetation.

The proposed tree removal is required to facilitate the construction of the dwelling and would not be the result of the applicant attempting to obtain more significant views; the proposal would satisfy the fourth view-sharing requirement of the DCP as outlined above and will not be discussed further.

Further to the DCP controls above, advisory notes stipulate that:

- Where potential for view loss to adjoining developments exists, an assessment of the view loss (supported by a clearly documented photographic analysis) shall be provided;
- Height poles should be erected to demonstrate the impact of the finished development on view lines with a statement to be provided by a Registered Surveyor certifying the height and location of the poles in relation to the proposed structures.

As reflected by submission, height poles were not initially erected by the applicant; it was arranged for surveyor-certified height poles to be erected during the inspection of the adjoining site. A photographic analysis was undertaken by the assessing officer at the time of their inspection to the adjoining site.

In determining the extent of potential view loss to adjoining and nearby properties, the four planning principles outlined within the NSW Land and Environment Court *Tenacity Consulting v Warringah Council [2004] NSW LEC 140* have been considered.

#### **1. Nature of the view to be affected**

*"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic view (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured."*

#### **Comment:**

Due to the topography of the area, significant views would be obtained from the subject site and surrounding sites. Such views would be generally be directed towards the east, and would incorporate the ocean, some glimpses of Narrabeen Beach and parts of the Narrabeen Peninsula. The filtering of views by vegetation would vary when viewed from surrounding sites.

#### **2. The part(s) of the property from which the views are obtained**

*"The second step is to consider from what part of the property the views are obtained. For example the*



*protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic."*

Comment:

**Sites fronting Marinna Road:**

The most significant views from these sites would be from the front of their respective dwellings.

**Sites to the west (i.e. rear) of the subject site:**

The most significant views from these sites would likely be obtained from the rear of their respective dwellings.

**3. The extent of the impact**

*"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."*

**Note:** Refer to Appendix A for images of the subject site (with erected height poles) as photographed by the assessing officer.

**Note 2:** Inspections within the Kalang Road and Marinna Road reserves indicate that the proposed development would not adversely affect views from these public areas, and they are not discussed further.

Comment:

**2 Marinna Road**

The proposed front setback would be substantially less than the existing front setback on this site. While an inspection was not possible to this property, observations by the assessing officer indicate that any views towards the ocean from the front of this site would likely be filtered by vegetation on both this site and the subject site. Due to the design of the dwelling on this site, current views are unlikely to be obtained by looking across the front of the subject site. With regard to the above and the planning principles, any view loss from this site would likely be classified as negligible to minor.

**6 Marinna Road**

The proposed front setback would be substantially less than the existing front setback on this site. While an inspection was not possible to this property, observations by the assessing officer indicate that any views towards the ocean from the front of this site would likely be directed immediately to the front of the site. Due to the design of the dwelling on this site, side-facing views across the subject site are unlikely to be obtained at present. With regard to the above and the planning principles, any view loss from this site would likely be classified as negligible to minor.

**5 Kalang Road**

This site is located immediately to the rear of the subject site, therefore views from the rear of this dwelling would be obtained by overlooking the subject site. With regard to vegetation on the subject site and surrounding sites and the three storey dwelling on this adjoining site, view impacts would vary and are assessed as follows:

Lower Ground Floor and primary Private Open Space Areas

Views of the ocean from this level are currently obtained through a narrow corridor (over the existing dwelling on the subject site) between a group of significant trees and the dwelling/vegetation at 6 Marinna Road. The height poles indicate that the proposed development would constrain views through this area to a smaller/more narrow view corridor, though the most significantly affected areas



are already largely filtered by large vegetation on sites along Elanora Road and Georgina Avenue to the east. The proposed development would likely have similar impacts on the primary private open space area to the rear of the dwelling (i.e. around the swimming pool) which are at a similar floor level.

#### Ground Floor

Similar to the lower ground floor, views of the ocean from this level (both from internal living areas and a large balcony) are currently obtained through a corridor (over the existing dwelling on the subject site) between a group of significant trees and the dwelling/vegetation at 6 Marinna Road. Such views are mostly obtainable from the northern side of the dwelling; such views become increasingly obscured as the viewpoint is progressively moved south and both aforementioned trees and dwelling at 6 Marinna Parade increasingly obscure views. Due to the height of the proposed dwelling and as the proposed first floor would be offset towards the south of the subject site, the height poles indicate that this view corridor towards the ocean would be largely retained, and the most significant impacts would be largely obscured by existing vegetation.

#### First Floor

It was not possible to obtain photos from the northern side of the first floor, however based on observations from other areas on this site, the aforementioned trees are likely to have a similar level of impact to the lower levels as the viewlines are progressively moved south. The additional elevation of this level however permits views across the top of 6 Marinna Road towards the ocean. The height poles indicate that impacts significant views would be highly unlikely.

In summary, the impacts at 5 Kalang Road would be highly variable; with regard to the above and the planning principles, any view loss from this site would likely be classified as minor to moderate.

#### **4. The reasonableness of the proposal that is causing the impact**

*"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."*

#### Comment:

As indicated above, the proposed development would likely have some impact on views obtained from the site to the above, however such impacts are considered to be reasonable. Subject to conditions, the proposed dwelling would comply with most standards and controls. Further, the proposed first floor would be offset to the southern side of the proposed dwelling, and would largely maintain an existing view corridor through which views are obtained from the lower levels of the dwelling at 5 Kalang Road.

In summary, a submission from an adjoining sites expressed concerns regarding view loss. An assessment of potential view-sharing impacts from adjoining sites was subsequently undertaken in accordance with both the DCP and relevant Land and Environment Court Planning Principles. This assessment indicated that the proposed development would likely have a minor to moderate level of impact on views from the site to the rear and negligible to minor impacts on views from sites to either side. In accordance with the Tenacity principles and the limitations of the subject site, the levels of impact are considered to be reasonable.

#### **C1.4 Solar Access**

The plans indicate that the proposed dwelling would likely have a considerable impact on the adjoining site at 2 Marinna Avenue. The site inspection could not however identify any windows on that site's northern elevation (i.e. the elevation that would be most heavily affected); as no glazed surfaces would



be affected (and noting that more than three hours of solar access to the adjoining site), the proposal would technically comply with the controls for the overshadowing of adjoining sites. The proposal would permit sufficient solar access to private open and living spaces within the subject site.

### C1.5 Visual Privacy

Two submissions have been received which raise specific concerns regarding visual privacy. The specific elements to which the objections relate include:

- Large glazed areas on the rear elevation of the proposed dwelling; and
- A balcony which would wrap around the front northeast corner of the proposed dwelling.

While concerns regarding the rear building line from the owners of 5 Kalang Road are noted, the proposed rear building line of the dwelling would be approximately 40m away from the rear building line of this adjoining site. Further, the design of the proposed dwelling would not permit overlooking of 5 Kalang Road for the following reasons:

- The ground floor of the proposed dwelling would be well below the lower ground and ground floor levels of this adjoining site (approximately 1.2m below the rear boundary, which itself is below the floor levels of the dwelling at 5 Kalang Road).
- While the proposed first floor would be above the level of the rear boundary, most of the floor area at the rear of this level is a large void, therefore overlooking potential from this area would be limited. The only room that would extend to the rear building line on the first floor is Bedroom 2; this room is not expected to be a high use area, and its direct outlook would be towards trees at the rear of the subject and 5 Kalang Road. Combined with the significant separation of the two dwellings, it is considered unlikely that there would be significant adverse visual privacy impacts.

To further address visual privacy concerns, a condition has been recommended for screen planting to be erected along the rear boundary; it is recommended that the height of such landscaping be capped at three metres, so that it does not significantly affect views from the rear of 5 Kalang Road.

It is agreed that the proposed balcony on the northeast corner of the dwelling could adversely affect the privacy of the owners of 6 Marinna Avenue. While it is noted that this adjoining property has a forward-facing first-floor balcony that is not screened on its southern elevation (i.e. the elevation facing the subject site), this element feature a design that would likely direct views towards the front boundary of that site. The design of the proposed master bedroom balcony is considered to be unsatisfactory for the following reasons:

- Its design would permit direct views to the front of the dwelling at 6 Marinna Road. Further, as the proposed front building line is significantly forward than that of the dwelling at 6 Marinna Road, the design of the balcony would permit persons within this area to "look back" onto the dwelling at 6 Marinna Road from an elevated position, which includes the first floor balcony of this site.
- The erection of screening structures to address the above issue would substantially breach the building envelope, and would subsequently increase the bulk and scale of the building when viewed from the public road reserve.

Further, the design of the balcony would not satisfy applicable controls or objectives. It is therefore recommended that a condition be added that would require the following:

DA2017/1197

Page 17 of 37



- That the balcony along the northern side of the proposed first floor be deleted. The balcony is not to extend past the north elevation of the first floor where it intersects with the front building line.
- The side-facing windows of bedroom 5 are to be screened, obscured or redesigned so that any unobscured glass is not less than 1700mm above the Finished Floor Level (FFL) of the first floor.

Aside from the above issues, the proposed development would mostly satisfy visual privacy considerations, however issue is raised with three windows on the ground floor's northern elevation. All three windows are approximately 600mm high, with sill heights 900mm above the Finished Floor Level (FFL) of the ground floor. One of these three windows would be associated with a pantry; as this would not be a high-use area no further concern is raised. The other two windows however are associated with the combined kitchen/dining areas. While the two windows are narrow, they are at a height that may permit viewlines into the adjoining site; as an access pathway is proposed within the northern setback, there would be no opportunity to situate landscape screening between the windows and the property boundary. A condition is therefore recommended to have the glass within the two windows either frosted or obscured.

If the conditions as recommended above are implemented, the proposed development should satisfy development controls and objectives within Part C1.5 of the DCP.

#### **C1.7 Private Open Space**

Proposed POS area: Approx. 180m<sup>2</sup>

**Note:** Above calculations include minimum dimensions and exclude the pool.

#### **D5.1 Character as viewed from a public place (Excluding Elanora Heights Village Centre)**

Refer to comments regarding Part A4.5 of the DCP regarding proposed height, bulk, scale and its consistency with surrounding developments.

#### **D5.7 Building envelope (Excluding Elanora Heights Village Centre)**

Not including eaves, the proposed development would breach the building envelopes on both side elevations. Due to the slope of the site, the breach affects the dwelling on the eastern side of the roof ridge to a maximum height of approximately 600mm. The breach would also affect the balustrades and any privacy screening associated with the balcony on the northeast corner of the dwelling's first floor (though this element of the dwelling is recommended to be deleted; refer to the assessment of Section C1.5 of the DCP).

Despite the noncompliance, the proposal would generally satisfy the outcomes of the controls. Both sides of the proposed first floor would be stepped back from the ground floor side building lines, which would seek to minimise bulk and scale when views from the adjoining road reserve. Subject to recommended conditions, the proposal would also satisfy provisions relating to visual privacy (refer to the assessment of Section C1.5 of the DCP). The proposal would have a reasonable level of impact on views from surrounding sites (refer to the assessment of Section C1.3 of the DCP) and the proposal would technically comply with solar access provisions within Section C1.4 of the DCP. Proposed tree removal is not related to the building envelope noncompliance, therefore this objective is applicable.

With regard to the above, the proposed noncompliances would satisfy the objectives of the control and would not significantly contribute to apparent bulk and scale. The proposed noncompliances are



therefore considered to be supportable on merit.

#### **D5.8 Landscaped Area - General (Excluding Elanora Heights Village Centre)**

Including allowable variations, the application proposes a landscaped area of approximately 428m<sup>2</sup>, or 46.6% of the site area (i.e. a 6.8% variation to the development control); this is slightly inconsistent with the applicant's calculations of approximately 49.5% of the total site area. It is likely that the inconsistency is a result of the applicant's likely inclusion of pervious pathways that do not satisfy the LEP definition of "landscaped area".

If the pathway along the southwest side of the site were reduced to a maximum 1m in width, then the entirety of the southwest side setback would include landscaped areas and a pathway width that would be exempted from landscaped-area calculations as per allowable variations within the DCP. This would increase the proposed landscaped area to approximately 475m<sup>2</sup>, or 51.7%. With the imposition of this condition, the proposed landscaped area would both comply with the controls and satisfy relevant planning outcomes. Subject to recommended conditions, the proposal would be supportable on merit.

#### **POLICY CONTROLS**

##### **Pittwater Section 94 Development Contributions Plan**

#### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979



It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

**RECOMMENDATION**

THAT Council as the consent authority grant Development Consent to DA2017/1197 for Demolition of existing dwelling house and construction of new dwelling house and new swimming pool on land at Lot 70 DP 25329, 4 Marinna Road, ELANORA HEIGHTS, subject to the conditions printed below:

**DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

1. **Approved Plans and Supporting Documentation**  
The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

- a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Analysis	27 November 2017	MP Projects
Demolition Plan	27 November 2017	MP Projects
Basement Level	27 November 2017	MP Projects
Ground Floor	27 November 2017	MP Projects
First Floor	27 November 2017	MP Projects
Roof Plan	27 November 2017	MP Projects
SE Elevation	27 November 2017	MP Projects
NW Elevation	27 November 2017	MP Projects
NE Elevation	27 November 2017	MP Projects
SW Elevation	27 November 2017	MP Projects
Section AA	27 November 2017	MP Projects
Section BB	27 November 2017	MP Projects
Section CC	27 November 2017	MP Projects
Section DD	27 November 2017	MP Projects
Section EE	27 November 2017	MP Projects
Concept Material Palette	27 November 2017	MP Projects
Window Schedule 1	27 November 2017	MP Projects
Window Schedule 2	27 November 2017	MP Projects
Window Schedule 3	27 November 2017	MP Projects
Window Schedule 4	27 November 2017	MP Projects
Window Schedule 5	27 November 2017	MP Projects
Plan showing boundaries, relative heights & physical features over Lot 70 DP 25329	31 August 2016	Bee & Lethbridge
Underfloor Survey	15 March 2018	Bee & Lethbridge

DA2017/1197

Page 20 of 37



<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No 871645S_03	27 November 2017	Sustainability-Z Pty Ltd
Arboricultural Impact Assessment	27 October 2017	The ENTS Tree Consultancy

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

<b>Waste Management Plan</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	4 December 2017	Vaughan Milligan Development Consulting Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

**2. Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- o The northwest (i.e. rear) elevation of the balcony which extends from Bedroom 5 is to be fitted with a privacy screen. The screen shall be a height of at least 1.7m above the finished floor level of the balcony and shall be constructed of colours/materials that are consistent with the remainder of the dwelling.
- o The design of the front boundary fence shall be as follows:
  - The height of the fence shall be a maximum height of one (1) metre above ground level;
  - The fence shall be constructed of open, see-through, dark-coloured materials
    - o Any gate(s) on the front boundary shall not swing outwards into the adjoining public road reserve.
    - o Any new side boundary fence within the front setback (i.e. between the front property boundary and front building line) shall not be greater than one (1) metre high.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land. (DACPLB02)

**3. Approved Land Use**

Nothing in this consent shall authorise the use of the site as detailed on the approved plans for any land use of the site beyond the definition of a "dwelling house", as defined by Pittwater



Local Environment Plan 2014

Any variation to the approved land use beyond the scope of the above definition (where consent is required) would require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent and . (DACPLB03)

4. **Prescribed conditions (Demolition):**

(a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (ii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Reason: Legislative Requirement (DACPLB09)

5. **Telecommunications in New Developments**

Prior to the issue of the Construction Certificate in connection with the development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

DA2017/1197

Page 22 of 37



(i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

and

(ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Reason: To ensure that telecommunications infrastructure is considered early in the planning process.

6. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of

DA2017/1197

Page 23 of 37



the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

7. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )



(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

#### 8. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved



- waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;  
  
Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS



9. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

10. **On-site Stormwater Detention Compliance Certification**

Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.7 of Pittwater 21 DCP.

Note: Where Council is the Principal Certifying Authority, 3 sets of engineering plans are to be submitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

11. **Vehicle Crossings Application Formwork Inspection**

An application for street levels shall be made with Council for approval subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid. Approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

DA2017/1197

Page 27 of 37



Reason: To facilitate suitable vehicular access to private property. (DACENC12)

12. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Safety. (DACENC19)

13. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors are to be used within Council land.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACENCO5)

14. **Geotechnical Report Recommendations have been correctly incorporated into designs and structural plans**

A geotechnical Engineer risk assessment must be undertaken in accordance with Geotechnical Risk Management Policy for Pittwater - 2009. This will require Form 1 and 1(a); Declaration and certificate made by Geotechnical Engineer must be submitted to Council and to the Principal Certifying Authority.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.

Reason: To ensure geotechnical risk is managed appropriately.

15. **Soil and Water Management Program**

A Soil and Water Management Plan prepared in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and implemented on site until the works are completed.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the



issue of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACHPC02)

16. **Compliance with standards (Demolition):**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

17. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

18. **External Colours and Materials (Industrial, Commercial, Mixed & Apartment Buildings)**

(a) External finishes - External colours and materials are to be in accordance with the approved concept material palette. The "lightweight cladding" indicated on the palette is not supported and is to be changed to a colour that is of a dark/earthy tone in accordance with Part D5.3 (Building colours and materials) of Pittwater 21 Development Control Plan.

(b) External Glazing - The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).

(c) External Roofing - The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)

19. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- o Quick Check agents details - see Building Developing and Plumbing then Quick Check;

DA2017/1197

Page 29 of 37



- and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
  - Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

#### CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

20. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

#### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. **Vehicle Crossings**

The provision of one normal vehicle crossing 3.5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

22. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control at Work Site Manual and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

23. **Noise and Vibration**

The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations

Reason: To ensure the amenity of the surrounding area for residents

DA2017/1197

Page 30 of 37



24. **Protection of Adjoining Property - Excavation**

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.

Reason: To ensure private and public safety

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE  
OCCUPATION CERTIFICATE**

25. **Authorisation of Legal Documentation Required for On-site Stormwater Detention**

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land. (DACENF01)

26. **Restriction as to User for On-site Stormwater Detention**

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

27. **Positive Covenant for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.  
(DACENF12)

DA2017/1197

Page 31 of 37



28. **Creation of Positive Covenant and Restriction as a User**  
Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Northern Beaches Council for authorisation.
- A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".
- Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.
- Reason: To identify encumbrances on land. (DACENF14)
29. **Geotechnical Certification Recommendations have been Implemented**  
Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
- Reason: To ensure geotechnical risk is mitigated appropriately.
30. **Restoration of Damaged Public Infrastructure**  
Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
- Reason: To ensure public infrastructure is returned to the state it was in prior to development
31. **House / Building Number**  
House/building number is to be affixed to the building to be readily visible from the public domain.
- Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.
- Reason: Proper identification of buildings. (DACPLF04)
32. **Swimming Pool Requirements**  
The Swimming Pool shall not be filled with water nor be permitted to retain water until:
- (a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992;
  - (ii) Swimming Pools Amendment Act 2009;
  - (iii) Swimming Pools Regulation 2008
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools
- (b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.



(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life (DACPLF09)

#### ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

33. **Screen boundary planting**

Screen shrub or small tree planting shall be provided to the rear setback to achieve a minimum of 3 metres at maturity along the north, east and west boundaries. Shrub planting shall be planted at 25 litre size and shall be spaced at 1 metre centres.

Reason: to ensure the open space is screened to provide privacy to adjoining properties in accordance with C1.5 Visual privacy and to soften the built form of development to satisfy C1.1 Landscaping. (DACLAGOG1)

34. **Tree Planting**

At least 2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be planted of sufficient scale to immediately add to the tree canopy of Pittwater and soften the built form. Canopy trees shall be capable of reaching a minimum of 13 metres at maturity, and shall be planted at 75 litre size.

Reason: in accordance with C1.1 Landscaping (DACLAGOG1)

35. **Landscaped front setback**

The front setback shall incorporate 2 canopy trees as required by the DCP. Additionally the landscape treatment shall consist of shrub planting along all site boundaries, capable of achieving a minimum of 3 metres at maturity. Shrub planting shall be planted at 25 litre size and shall be spaced at 1 metre centres.

Reason: to soften and reduce the visual impact of the built form from the streetscape, and ensure the built form is secondary to landscaping and vegetation, to satisfy D5.1 Character as viewed from a Public Place.

36. **Visual privacy conditions**

The following modifications are to be made to the plans and maintained for the life of the  
DA2017/1197 Page 33 of 37



development as follows:

- The Bedroom 5 balcony along the northern side of the proposed first floor be deleted. The portion of this balcony at the front of the site may be retained, however the balcony is not to extend past the north-side elevation of the first floor where it intersects with the front building line.
- The north-side doors of Bedroom 5 are to be deleted, any may be replaced with windows. Any windows on the northern side of Bedroom 5 are to be screened, obscured or redesigned so that any unobscured glass is not less than 1700mm above the Finished Floor Level (FFL) of the first floor. Any screen(s) on these windows shall be made from materials that are consistent with the approved colour schedule.
- Windows W01-G and W02-G (i.e. the north-facing windows within the kitchen) are to be fitted with obscured glass.

Reason: To protect the visual privacy of surrounding sites in accordance with Section C1.5 (Visual Privacy) of Pittwater 21 Development Control Plan.

37. **Home Businesses**

If permitted, the carrying out of a "home business" (as defined by Pittwater Local Environment Plan 2014) must not involve the use of more than 50 square metres of floor area.

Reason: So development complies with Clause 5.4(2) of Pittwater Local Environment plan.

38. **Design of side pathway**

The width of the pathway along the southwest side of the dwelling is to be reduced to a maximum width of 1 metre. The remaining area within the side setback that is not occupied by the pathway shall be landscaped; any plant species used within this area shall consist of plant species that are native to the locality.

Reason: To ensure compliance with Section D5.8 (Landscaped Area - General) of Pittwater 21 Development Control Plan.

39. **Height of building**

The height of the dwelling shall not exceed RL. 95.55.

Reason: To ensure that the height of the building complies with Pittwater Local Environment Plan 2014.

Development Application No. DA2017/1197

Appendix A: Photos from 5 Kalang Avenue (to supplement the view loss assessment within the planning report)

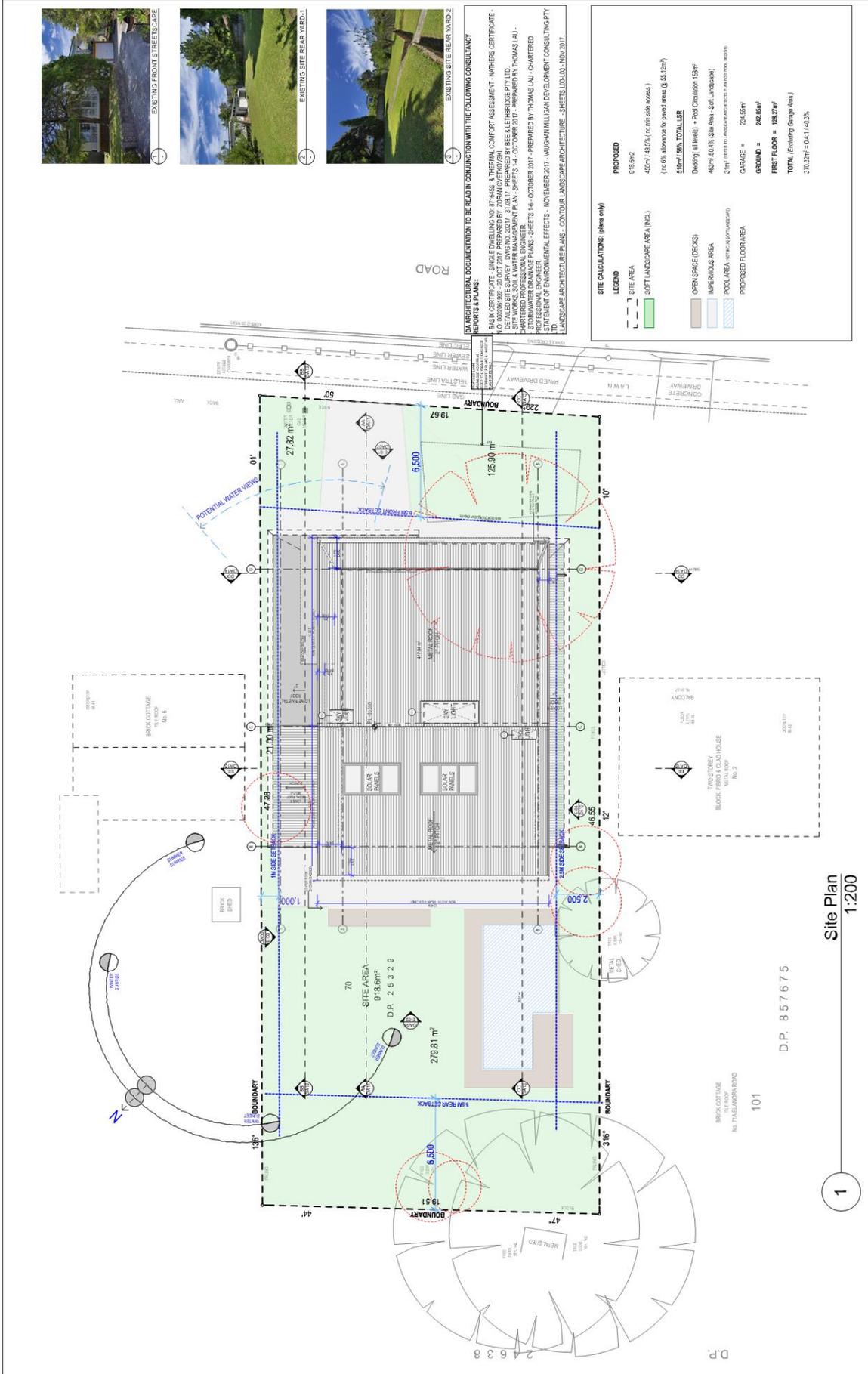










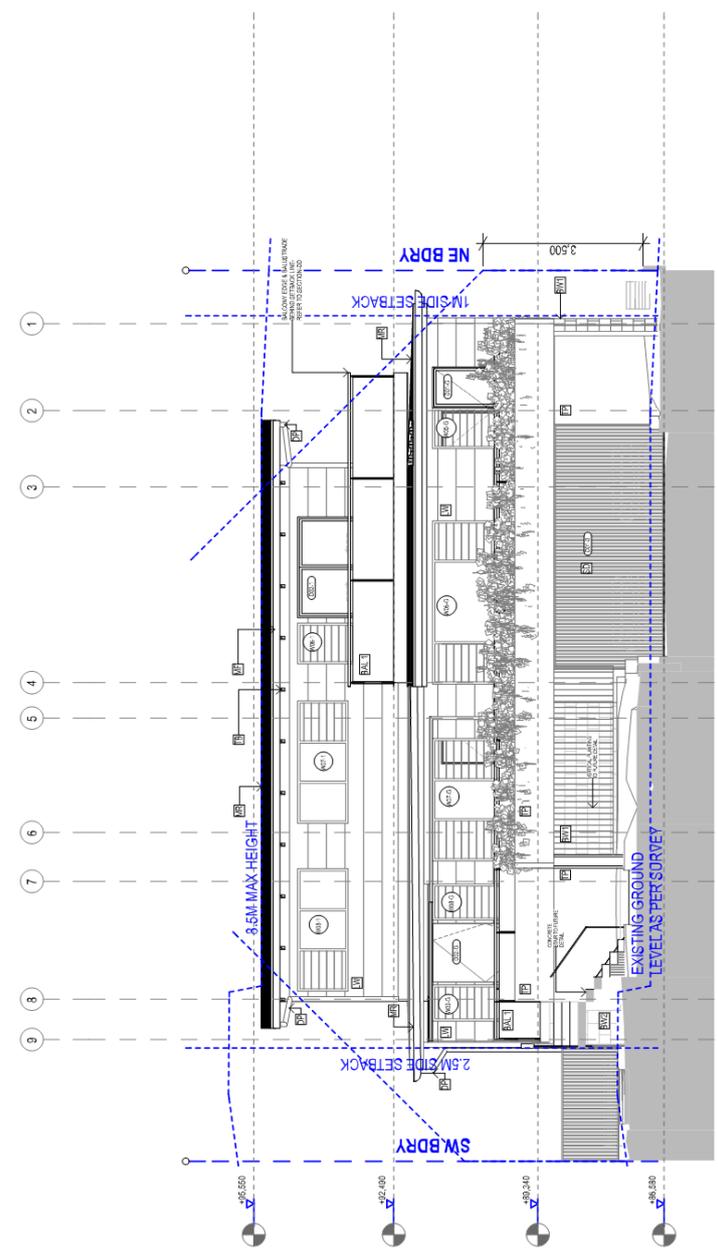


<p><b>MP PROJECTS</b></p>	<p>TRUE NORTH</p>	<p>NOTES</p> <p>DEVELOPMENT APPLICATION DRAWINGS ISSUED FOR APPROVAL ONLY - STRICTLY NOT FOR CONSTRUCTION. DO NOT SCALE. THE DRAWINGS, THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS, ERRORS AND OMISSIONS WITH THE CLIENT. ALL CONSTRUCTION DETAILS, FINAL MATERIAL SPECIFICATION &amp; RELEVANT BUILDING APPROVALS TO BE PREPARED BY MP PROJECTS/CLIENT ENGINEER &amp; SITE WORKS INCLUDING BUT NOT LIMITED TO STORMWATER DRAINAGE, CIVIL &amp; STRUCTURAL SERVICES ARE THE RESPONSIBILITY OF THE RELEVANT ENGINEER.</p>	<p>REV</p> <p>DATE</p> <p>DESCRIPTION</p> <p>27.11.17</p> <p>DA ISSUE</p>	<p>PROJECT DETAILS</p> <p><b>4 MARINA ROAD</b></p> <p>LOT:70 DP: 25329</p> <p>PAPANDREA RESIDENCE</p> <p>Drawing No: DA01</p> <p>SITE ANALYSIS</p>	<p>PROJ DATE:</p> <p>26/11/17</p> <p>JOB:</p> <p>1603</p>
	<p>Checked By:</p> <p>THMP</p> <p>Drawn By:</p> <p>TVD</p> <p>Package:</p> <p>DEVELOPMENT APPLICATION</p> <p>Scale:</p> <p>1:200</p> <p>Sheet:</p> <p>DA01</p> <p>of</p> <p>3</p>				

**Site Plan**  
1:200

1

- LEGEND**
- BA11 BALUSTRADE - STRUCTURAL GLASS
  - BW1 TYPICAL BLOCKWORK
  - BS1 DESIGNER BLOCK - POLISHED
  - CON1 CONCRETE SLAB (GARAGE)
  - CON2 CONCRETE SLAB (INTERNAL)
  - CON3 CONCRETE SLAB (EXTERNAL)
  - CON4 CONCRETE SLAB (TOPPING)
  - CON5 CONCRETE SLAB (TOPPING)
  - CON6 CONCRETE SLAB (TOPPING)
  - CON7 CONCRETE SLAB (TOPPING)
  - CON8 CONCRETE SLAB (TOPPING)
  - CON9 CONCRETE SLAB (TOPPING)
  - CON10 CONCRETE SLAB (TOPPING)
  - CON11 CONCRETE SLAB (TOPPING)
  - CON12 CONCRETE SLAB (TOPPING)
  - CON13 CONCRETE SLAB (TOPPING)
  - CON14 CONCRETE SLAB (TOPPING)
  - CON15 CONCRETE SLAB (TOPPING)
  - CON16 CONCRETE SLAB (TOPPING)
  - CON17 CONCRETE SLAB (TOPPING)
  - CON18 CONCRETE SLAB (TOPPING)
  - CON19 CONCRETE SLAB (TOPPING)
  - CON20 CONCRETE SLAB (TOPPING)
  - CON21 CONCRETE SLAB (TOPPING)
  - CON22 CONCRETE SLAB (TOPPING)
  - CON23 CONCRETE SLAB (TOPPING)
  - CON24 CONCRETE SLAB (TOPPING)
  - CON25 CONCRETE SLAB (TOPPING)
  - CON26 CONCRETE SLAB (TOPPING)
  - CON27 CONCRETE SLAB (TOPPING)
  - CON28 CONCRETE SLAB (TOPPING)
  - CON29 CONCRETE SLAB (TOPPING)
  - CON30 CONCRETE SLAB (TOPPING)
  - CON31 CONCRETE SLAB (TOPPING)
  - CON32 CONCRETE SLAB (TOPPING)
  - CON33 CONCRETE SLAB (TOPPING)
  - CON34 CONCRETE SLAB (TOPPING)
  - CON35 CONCRETE SLAB (TOPPING)
  - CON36 CONCRETE SLAB (TOPPING)
  - CON37 CONCRETE SLAB (TOPPING)
  - CON38 CONCRETE SLAB (TOPPING)
  - CON39 CONCRETE SLAB (TOPPING)
  - CON40 CONCRETE SLAB (TOPPING)
  - CON41 CONCRETE SLAB (TOPPING)
  - CON42 CONCRETE SLAB (TOPPING)
  - CON43 CONCRETE SLAB (TOPPING)
  - CON44 CONCRETE SLAB (TOPPING)
  - CON45 CONCRETE SLAB (TOPPING)
  - CON46 CONCRETE SLAB (TOPPING)
  - CON47 CONCRETE SLAB (TOPPING)
  - CON48 CONCRETE SLAB (TOPPING)
  - CON49 CONCRETE SLAB (TOPPING)
  - CON50 CONCRETE SLAB (TOPPING)
  - CON51 CONCRETE SLAB (TOPPING)
  - CON52 CONCRETE SLAB (TOPPING)
  - CON53 CONCRETE SLAB (TOPPING)
  - CON54 CONCRETE SLAB (TOPPING)
  - CON55 CONCRETE SLAB (TOPPING)
  - CON56 CONCRETE SLAB (TOPPING)
  - CON57 CONCRETE SLAB (TOPPING)
  - CON58 CONCRETE SLAB (TOPPING)
  - CON59 CONCRETE SLAB (TOPPING)
  - CON60 CONCRETE SLAB (TOPPING)
  - CON61 CONCRETE SLAB (TOPPING)
  - CON62 CONCRETE SLAB (TOPPING)
  - CON63 CONCRETE SLAB (TOPPING)
  - CON64 CONCRETE SLAB (TOPPING)
  - CON65 CONCRETE SLAB (TOPPING)
  - CON66 CONCRETE SLAB (TOPPING)
  - CON67 CONCRETE SLAB (TOPPING)
  - CON68 CONCRETE SLAB (TOPPING)
  - CON69 CONCRETE SLAB (TOPPING)
  - CON70 CONCRETE SLAB (TOPPING)
  - CON71 CONCRETE SLAB (TOPPING)
  - CON72 CONCRETE SLAB (TOPPING)
  - CON73 CONCRETE SLAB (TOPPING)
  - CON74 CONCRETE SLAB (TOPPING)
  - CON75 CONCRETE SLAB (TOPPING)
  - CON76 CONCRETE SLAB (TOPPING)
  - CON77 CONCRETE SLAB (TOPPING)
  - CON78 CONCRETE SLAB (TOPPING)
  - CON79 CONCRETE SLAB (TOPPING)
  - CON80 CONCRETE SLAB (TOPPING)
  - CON81 CONCRETE SLAB (TOPPING)
  - CON82 CONCRETE SLAB (TOPPING)
  - CON83 CONCRETE SLAB (TOPPING)
  - CON84 CONCRETE SLAB (TOPPING)
  - CON85 CONCRETE SLAB (TOPPING)
  - CON86 CONCRETE SLAB (TOPPING)
  - CON87 CONCRETE SLAB (TOPPING)
  - CON88 CONCRETE SLAB (TOPPING)
  - CON89 CONCRETE SLAB (TOPPING)
  - CON90 CONCRETE SLAB (TOPPING)
  - CON91 CONCRETE SLAB (TOPPING)
  - CON92 CONCRETE SLAB (TOPPING)
  - CON93 CONCRETE SLAB (TOPPING)
  - CON94 CONCRETE SLAB (TOPPING)
  - CON95 CONCRETE SLAB (TOPPING)
  - CON96 CONCRETE SLAB (TOPPING)
  - CON97 CONCRETE SLAB (TOPPING)
  - CON98 CONCRETE SLAB (TOPPING)
  - CON99 CONCRETE SLAB (TOPPING)
  - CON100 CONCRETE SLAB (TOPPING)



E-01 SE ELEVATION  
1:100

- EXISTING ELEMENTS
- DEMOLISHED ELEMENTS
- NEW ELEMENTS



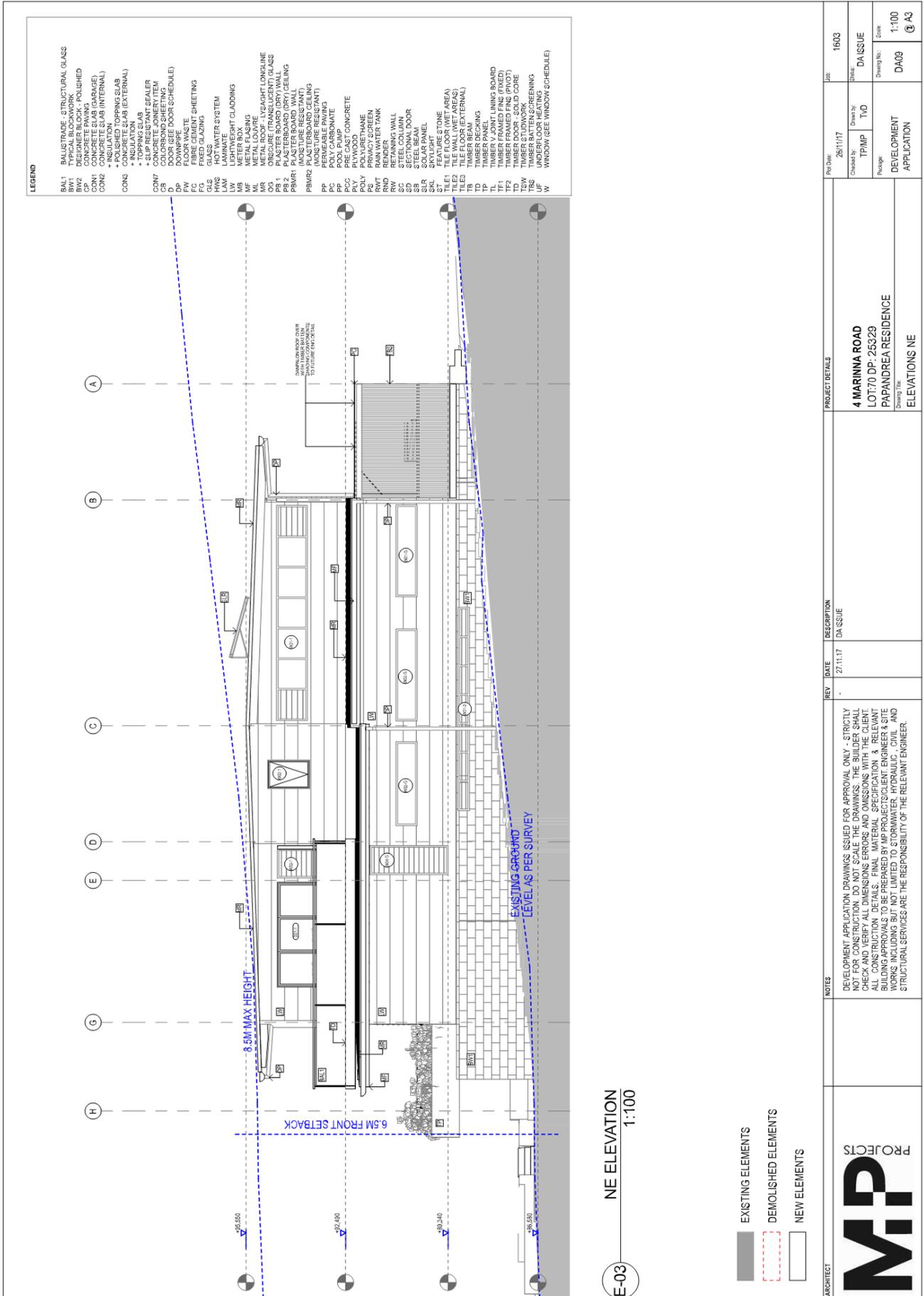
NOTES  
DEVELOPMENT APPLICATION DRAWINGS ISSUED FOR APPROVAL ONLY - STRICTLY NOT FOR CONSTRUCTION. DO NOT SCALE. THE DRAWINGS, THE BUILDER SHALL CHECK AND VERIFY ALL DIMENSIONS, ERRORS AND OMISSIONS WITH THE CLIENT. ALL CONSTRUCTION DETAILS, FINAL MATERIAL SPECIFICATION & RELEVANT BUILDING APPROVALS TO BE PREPARED BY MP PROJECTS/CLIENT ENGINEER & SITE WORKS INCLUDING BUT NOT LIMITED TO STORMWATER DRAINAGE, CIVIL AND STRUCTURAL SERVICES ARE THE RESPONSIBILITY OF THE RELEVANT ENGINEER.

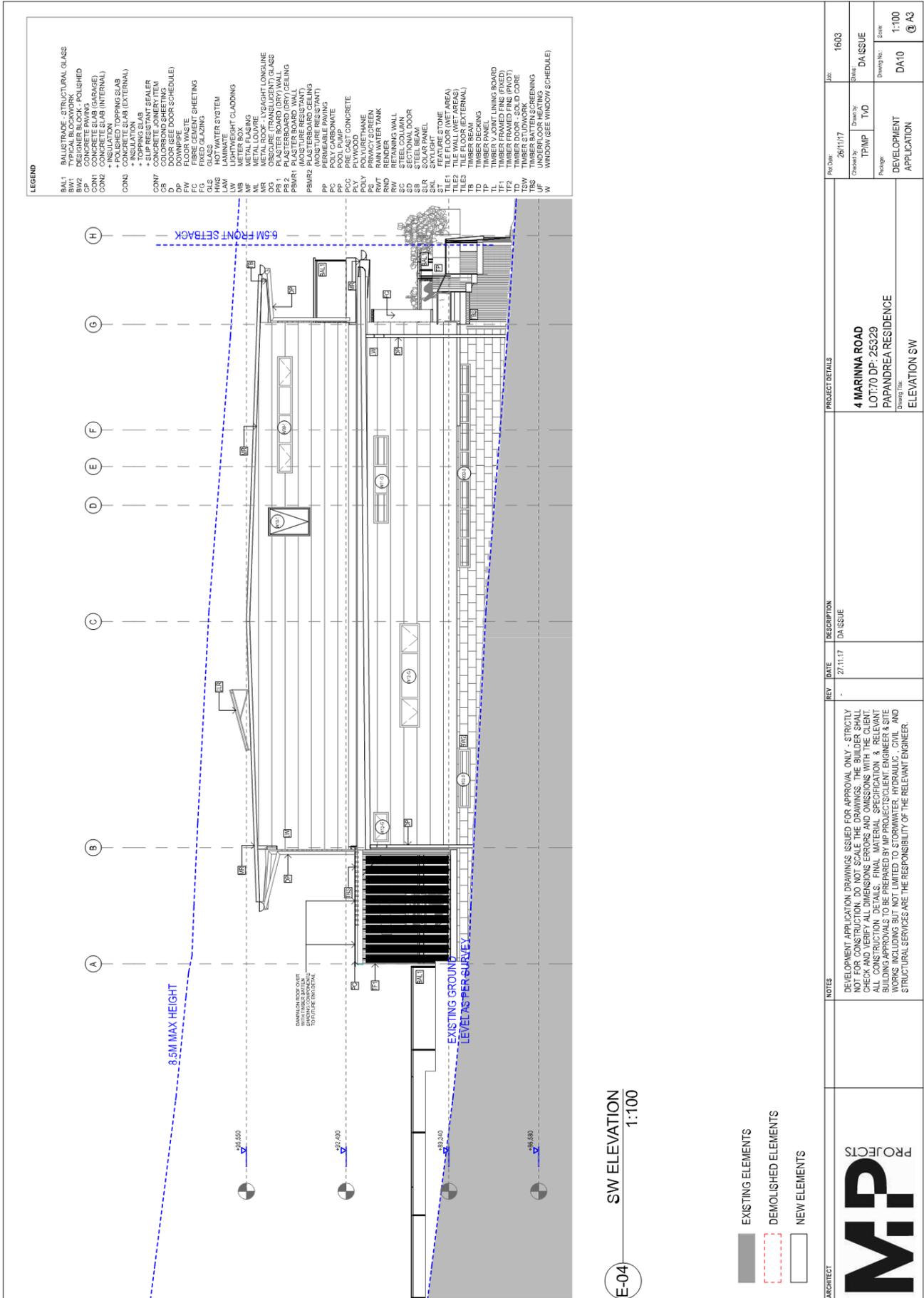
REV	DATE	DESCRIPTION
1	27.11.17	DA ISSUE

PROJECT DETAILS  
**4 MARINNA ROAD**  
LOT:70 DP: 25329  
PAPANORIA RESIDENCE  
Drawing Title: ELEVATIONS SE

Proj Date:	26/11/17	Job:	1603
Checked By:	TPMP	Drawn By:	TVD
Package:	DEVELOPMENT APPLICATION	Scale:	1:100
		Drawing No.:	DA07
		Scale:	③ A3









**SUBJECT: N0595/16 - 65 GRANDVIEW DRIVE, NEWPORT NSW 2106**  
**Alterations and additions to an existing dwelling**

<b>Determination Level:</b>	<b>Development Determination Panel (DDP)</b>
<hr/>	
<b>SUMMARY OF RECOMMENDATION</b>	<b>CONSENT WITH CONDITIONS</b>
<hr/>	
<b>REPORT PREPARED BY:</b>	Christopher Nguyen
<b>APPLICATION SUBMITTED ON:</b>	21 December 2016
<b>APPLICATION SUBMITTED BY:</b>	PETER DOWNES DESIGNS 77 RIVIERA AVENUE AVALON BEACH NSW 2107
<b>OWNER(S):</b>	VHB INVESTMENTS (NSW) PTY LTD
<hr/>	

**1.0 SITE DETAILS**

The site is known as 65 Grandview Drive, Newport and legally referred to as Lot 33 DP 16029. The site is irregular in shape and the total area of the site is listed as 505sqm. The site contains a single two storey dwelling. The slope of the site from the north-west corner to the south-west corner was measured to be approximately 45% and has a treed south-east aspect. Surrounding the site are low density residential dwellings.

**2.0 PROPOSAL IN DETAIL**

The application seeks consent for the following alterations and additions:

- Construction of a two storey pavilion to the west of the existing dwelling. The pavilion is connected to the existing dwelling by an internal walkway from the ground floor of the existing dwelling
- The existing dwelling's deck to the south of the dwelling is to be extended and the ground area north of the dwelling is to be paved
- Various internal alterations to the bottom floor and ground floor of the existing dwelling. The driveway is to be replaced.

### 3.0 STATUTORY AND POLICY CONSIDERATIONS

The site is zoned E4 Environmental Living under Pittwater Local Environmental Plan 2014. Pursuant to the land use table in Part 2 of this instrument, alterations and additions are permissible with consent.

The following relevant state, regional and local policies and instruments apply:

- Environmental Planning and Assessment Act, 1979 (the Act) Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
  - Acid Sulphate Soils Map - Class 5
  - Biodiversity Map
  - Geotechnical Hazard Map
  - Height of Buildings Map - 8.5m
  - Lot Size Map - 700sqm
- Pittwater 21 Development Control Plan (P21 DCP)
  - Newport Locality
  - Geotechnical Risk Management Policy for Pittwater
  - Landscaped Area Map: Area 1
  - OSD Required
  - Land Containing or Adjoining Pittwater Spotted Gum Forest

### 4.0 BACKGROUND

The application (N0595/16) was lodged at Council on 22/12/2016. The application was recommended to be approved by the Assessment Officer. The application was determined by the Development Unit (previously under delegation by the former Pittwater Council) on 13/04/2017. The Development Unit did not endorse the Assessment Officer's recommendation and the application was deferred to enable the applicant to provide further investigation of the overshadowing impact to 63 Grandview Drive, Newport, and for the applicant to consider amendments to maintain reasonable levels of solar access to 63 Grandview Drive.

The applicant provided an amended proposal on 20/11/2017. The applicant provided the following documents:

- Architectural drawings prepared by Peter Downes, 1519 01 A through to 1519 07 A, all dated 16/11/2017
- BASIX Certificate, A269754\_02, dated 07/02/2018
- Geotechnical Risk Management Report Addendum, prepared by White Geotechnical Group, Ref J0818B, dated 22/12/2017
- Revised Statement of Environmental Effects, prepared by Lance Doyle, Ref 16028, dated 12/12/2017
- Shadow Diagrams in 2D, prepared by Peter Downes, 1519 08A, 1519 09A and 1519 10A, all dated 16/11/2017
- Shadow Diagrams in 2D, prepared by Peter Downes, 11AM June 21 and 1PM June 21, not dated.
- Shadow Diagrams in 3D, prepared by Peter Downes, shadow diagrams from Feb 22 to Jun 22 and July 22 to Oct 22, not dated.

Key changes to the original proposed development include the following:

- The pavilion is set back further northwards by approximately 1.2m
- The height of the pavilion has been reduced from 8.5m to 7.45m.
- The roof of the pavilion is changed from a flat roof to a roof with a 3 degree pitch

A search of Council's records revealed the following:

N0527/05 - Development Application for alterations and additions to the existing dwelling was granted consent on 24/10/2005

N0232/16 - Development Application for alterations and additions to the existing dwelling was refused on 10/08/2016

## **5.0 NOTIFICATION**

N0595/16 was notified from 03/01/2017 to 23/01/2017 to adjoining property owners in accordance with council's notification policy. A site inspection was conducted on 20/01/2016. During the notification period, two (2) submissions were received from the following:

- 63 Grandview Drive, Newport
- 67 Grandview Drive, Newport

The applicant provided an amended design on 20/11/2017. The application was renotified from 14/02/2018 to 28/02/2018 to adjoining property owners.

During the notification period, two (2) submissions were received from the following:

- 63 Grandview Drive, Newport
- 67 Grandview Drive, Newport

A site inspection was conducted at 63 Grandview Drive, Newport on 05/04/2018

A site inspection was conducted at 67 Grandview Drive, Newport on 29/03/2018

A site inspection was conducted at 65 Grandview Drive, Newport on 05/04/2018

## **6.0 ISSUES**

- 7.2 Earthworks
- B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
- B5.7 Stormwater Management - On-Site Stormwater Detention
- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C1.14 Separately Accessible Structures
- D10.1 Character as viewed from a public place
- D10.4 Building colours and materials
- D10.8 Side and rear building line (excluding Newport Commercial Centre)
- D10.11 Building envelope (excluding Newport Commercial Centre)
- D10.13 Landscaped Area - Environmentally Sensitive Land

## 7.0 COMPLIANCE TABLE

- T - Can the proposal satisfy the technical requirements of the control?
- O - Can the proposal achieve the control outcomes?
- N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
<b>Pittwater Local Environmental Plan 2014</b>					
1.9A Suspension of covenants, agreements and instruments			Y	Y	Y
Zone E4 Environmental Living		See 8.0 Discussion of Issues	Y	Y	N
4.3 Height of buildings	Maximum 8.5m height limit	7.45m at highest point	Y	Y	N
5.10 Heritage conservation			Y	Y	Y
7.1 Acid sulfate soils			Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.6 Biodiversity protection			Y	Y	Y
7.10 Essential services			Y	Y	Y
<b>Pittwater 21 Development Control Plan 2014</b>					
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects		See 8.0 Discussion of Issues	Y	Y	N
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings			Y	Y	Y
3.4 Notification			Y	Y	Y
3.5 Building Code of Australia			Y	Y	Y
A1.7 Considerations before consent is granted			Y	Y	Y
A4.10 Newport Locality			Y	Y	Y
B1.3 Heritage Conservation - General			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.1 Landslip Hazard			Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community		See 8.0 Discussion of Issues	Y	Y	N
B5.7 Stormwater Management - On-Site Stormwater Detention		See 8.0 Discussion of Issues	Y	Y	N
B5.8 Stormwater Management - Water Quality - Low Density Residential			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y

<b>Control</b>	<b>Standard</b>	<b>Proposal</b>	<b>T</b>	<b>O</b>	<b>N</b>
B5.12 Stormwater Drainage Systems and Natural Watercourses			Y	Y	Y
B6.1 Access driveways and Works on the Public Road Reserve		No changes proposed to the existing parking arrangements	Y	Y	Y
B6.2 Internal Driveways			Y	Y	Y
B6.3 Off-Street Vehicle Parking Requirements			Y	Y	Y
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			Y	Y	Y
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
C1.1 Landscaping			Y	Y	Y
C1.2 Safety and Security			Y	Y	Y
C1.3 View Sharing		See 8.0 Discussion of Issues	Y	Y	N
C1.4 Solar Access		See 8.0 Discussion of Issues	N	Y	N
C1.5 Visual Privacy		See 8.0 Discussion of Issues	Y	Y	N
C1.6 Acoustic Privacy			Y	Y	Y
C1.7 Private Open Space			Y	Y	Y
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures		See 8.0 Discussion of Issues	Y	Y	N
C1.23 Eaves			Y	Y	Y
C1.24 Public Road Reserve – Landscaping and Infrastructure			Y	Y	Y
D10.1 Character as viewed from a public place		See 8.0 Discussion of Issues	Y	Y	N
D10.4 Building colours and materials		See 8.0 Discussion of Issues	Y	Y	Y
D10.7 Front building line (excluding Newport Commercial Centre)			Y	Y	N
D10.8 Side and rear building line (excluding Newport Commercial Centre)		See 8.0 Discussion of Issues	N	Y	N

Control	Standard	Proposal	T	O	N
D10.11 Building envelope		See 8.0 Discussion of Issues	Y	Y	Y
D10.13 Landscaped Area - Environmentally Sensitive Land area	60% landscaped area	See 8.0 Discussion of Issues	N	Y	Y
D10.15 Fences - Flora and Fauna Conservation Areas		No new fences or modifications to existing fences	Y	Y	Y
D10.16 Construction, Retaining walls, terracing and undercroft areas			Y	Y	N
D10.18 Scenic Protection Category One Areas			Y	Y	Y
<b>State Environmental Planning Policies and other</b>					
SEPP (Building Sustainability Index: BASIX) 2004			Y	Y	Y
EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts			Y	Y	Y

## 8.0 DISCUSSION OF ISSUES

- **Zone E4 Environmental Living**

An objection was raised by 67 Grandview Drive regarding the amended proposal not meeting the objectives of the zone E4 Environmental Living. The objection refers to the 'Littoral Rainforest' on the subject site and objector's site which the objector views to be under threat by the proposed development and its overshadowing impact.

The objection states the proposal does not preserve ecological, scientific and aesthetic values of the site and surrounding area. The objector also considers the bulk and scale to be excessive and does not meet the objectives of the zone.

When examining the amended design, the proposed pavilion rises to a maximum height of 7.45m (RL 86800) when measured from the roof eave of the pavilion on the southern side to the existing ground level.

The pavilion is situated wholly within the prescribed building envelope. The height of the pavilion is approximately 1.05m above the existing roof line of the existing dwelling. This is not considered substantially higher than the existing dwelling and not considered an excessive structure.

The proposal seeks to remove two Norfolk Pine trees. Council's Bushland and Biodiversity Officer has recommended the proposal to be approved subject to the replacement of these trees with six (6) locally native canopy tree species. This shall be conditioned accordingly and this is considered appropriate to replace the loss of natural features on the site. When taking this into account, the ecological and aesthetic values of the site are considered to be maintained.

The proposed pavilion is considered to be appropriately integrated into the landform and landscape of the site. The site is heavily constrained and significantly sloping, descending from north to south. The area to the south of the existing dwelling is considered too steep to extend the existing dwelling. The area east of the existing dwelling is unsuitable to extend

the dwelling as it would remove off-street parking for the site. As Grandview Drive contains no appropriate street parking, this is not a viable option.

The proposal is considered to meet the outcomes of the E4 Environmental Living Zone

- **4.3 Height of Buildings**

The height of the original proposal was measured to be approximately 8.5m when measured from the roof eave south of the pavilion to the existing ground level.

The height of the amended proposal was measured to be 7.45m (RL 86800). The height of the pavilion has been decreased by approximately 1.05m.

Objections have been raised by 63 and 67 Grandview Drive regarding the height of the proposal and its visual impact. The height of the pavilion is considered acceptable. The height is considerably below the maximum height limit and when considering the steep nature of the surrounding topography, the proposal is considered in character with the surrounding locality.

The proposal is not considered to have an adverse overshadowing impact on adjoining neighbours (see *C1.4 Solar Access*)

The proposal is not considered to allow for reasonable sharing of views (see *C1.3 View Sharing*)

There are no heritage items or heritage conservation areas on site or within the vicinity of the area

- **7.2 Earthworks**

Council's Development Engineer provided the following comments:

*The proposal contains some minor excavation and filling to the western side of the existing dwelling and excavation of the foundations for the additions.*

Council's Development Engineer has reviewed the Geotechnical Report Addendum (prepared by White Geotechnical Group, Ref J0818B, dated 22/12/2017) and is satisfied there are no concerns with the proposal.

- **3.3 Submission of a Statement of Environmental Effects**

Objections were raised by 63 and 67 Grandview Drive regarding apparent errors and misleading comments within the revised Statement of Environmental Effects (prepared by prepared by Lance Doyle, Ref 16028, dated 12/12/2017).

Although there are some errors within the Statement of Environmental Effects, the applicant has provided adequate information in the form of architectural drawings and technical documents in order for Council to complete an assessment of the application and address all applicable controls to the development.

- **B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community**

Council has received objections from 63 and 67 Grandview Drive regarding the removal of valuable trees on the site, including two Norfolk Island Pine trees.

Council's Natural Resources Officer has provided the following comments:

*The property contains a modified landscape which slopes down from the road. The proposed works include construction of a new pavilion addition and alterations to the existing dwelling.*

*An arborist report has been submitted (Malcolm Bruce, 20/6/16) which assesses five (5) trees potentially impacted by the proposed works. One (1) of those trees was dead (T2) and one (1) is an exempt species (T1). T1 and T2 will therefore not be discussed further. Two (2) trees are proposed for removal (T3 and T4) both of which are in good condition and are protected species. Both trees have had retaining walls and fill built previously within their structural root zones and these retaining walls are showing signs of instability. Replacement of the infrastructure is likely required which would have a detrimental impact on both trees. In addition the proposed extension is within very close proximity to the proposed trunks of the trees and the arborist states that 'wind sway' could result in damage to the tree and/or house. Therefore removal of those trees as recommended in the arborist report is approved subject to replacement planting of at least six (6) locally native canopy trees which will mature at a height no less than 8.5 metres. Species are to be chosen from the list provided in the Native Gardening booklet available on the Council website. Tree protection measures have been provided for Tree 5 and these are to be adopted. This report is supported. No change to landscaping has been proposed.*

Council's Natural Resources Officer has conditioned the replacement of the trees to be removed with six locally native trees with a mature height of no less than 8.5m. This is considered adequate to compensate for the loss of trees as a result of the development. The site and surrounding locality still contains considerable trees and vegetation to maintain the natural character of the surrounding area.

It is acknowledged the two Norfolk Island Pine trees provide valued features to site. Replacement planting of six (6) native canopy trees would provide an increase in natural features on site.

- **B5.7 Stormwater Management - On-Site Stormwater Detention**

Council's Development Engineer provided the following comments:

*The increase in impervious area is >50 m<sup>2</sup> and as such the proposed works is to include an OSD system of an minimum of 4500 litres. Overflow of this system is subject to the requirements of the attached geotechnical report.*

*The previous hydraulic design is not affected by the amendments. No objection to approval, subject to conditions as recommended.*

The stormwater is to be discharged by direct connection into the adjacent street pit and pipe drainage system in accordance with the report by Taylor Consulting Engineers, dated December 2016.

Several conditions have also been imposed to ensure the applicant provides stormwater drainage plans to the Principal Certifying Authority (PCA). The PCA shall ensure the stormwater management system is to comply with the recommendations within the Geotechnical Risk Management Report and relevant Australian Standards. This should ensure the proposed stormwater drainage system adequately disposes of stormwater.

- **C1.3 View Sharing**

The objector located at 67 Grandview Drive, Newport, has raised concerns the proposal would adversely impact view sharing. A site inspection was conducted at 67 Grandview Drive on 20/01/2017 to determine the extent of view loss as a result of the proposed development. An assessment of view loss was conducted by utilising the four step assessment as outlined within Tenacity Consulting v Warringah [2004] NSW LEC 1046.

The assessment for the original plans is as follows:

**Step one assessed the views available to 67 Grandview Drive**

*The most significant views are obtained when facing towards the south and southeast from the objector's site. The views consist of the ocean, headland areas, extensive vegetation and the Newport Town Centre. These views vary depending on where the view is obtained on the objector's site. There are also views to the east of trees and vegetation however are considered less significant in comparison to the views to the south.*

**Step two determined the locations from which the views are obtained from 67 Grandview Drive**

*A site inspection found the ground floor living room obtained views towards the south, southeast and to a lesser extent the east. This living room is considered to be the principal living area of the dwelling which contains the most significant views. The views obtained are extensive vegetation, trees and headland in the distance. This is shown in the photo below:*



Adjoining the ground floor living room is a front entry deck which also has views of vegetation and the ocean to the southeast. The lower ground level contains a deck area adjoined to rooms which are not considered to be principal living areas. The lower ground level deck area obtains views of extensive vegetation when facing south and southeast.

**Step three assessed the extent of the impact on view sharing for the entire property**

The proposal would predominantly obstruct views towards the east and to a lesser extent the southeast. The most notable view loss would be directly to the east of the site, however the view is considered less significant than those obtained to the south. The most significant views are obtained from the ground floor living room facing south and south-east. In accordance with the principles of *Tenacity v Warringah*, views obtained from primary living areas such as living rooms are more significant than those obtained from a deck or bedroom. The views of extensive vegetation from the ground floor living room will still be largely be available to the objectors when facing south. If facing south-east from the ground floor living room, the pavilion would partially obstruct views of vegetation. This is shown in the photo below.



*Although there is a partial obstruction of vegetation, the amount of view loss towards this direction is minor and the objector still contains unobstructed views of vegetation when facing south from the ground floor living room. The view loss as a result of the proposal is considered to be minor.*

*The objector has provided photos taken from open space near the road reserve when facing south (Figure 15 of the objector's submission - see below photo). It portrays the potential view loss when facing south from this area. This location is taken from an outdoor area on the northern side of the objector's site near the road reserve. Although the views appear more valuable due to the view of the ocean and headland in the distance, this area cannot be considered a principal open space as the rear yard to the south obtains extensive open space.*



Photo provided by objector

**Step four assessed the reasonableness of the proposal causing the impact**

*The proposal does not technically comply with the rear setback requirement and building envelope controls, however the proposal is deemed to be reasonable. Although the proposal is not compliant with the rear setback and building envelope, the proposal was found to not obstruct views of high significance. The most significant views available to the objector facing south are reasonably maintained. The acceptance of the breach of the rear setback is further discussed in D10.8 Side and rear building line (excluding Newport Commercial Centre).*

*Alternative designs to the two storey pavilion would not significantly improve on the views to the south and south-east, particularly from the ground floor living room. The views from the ground floor living room directly south from principal living areas are maintained. The roof of the proposed pavilion does not rise above the objector's front deck area and therefore the views of the ocean in the distance towards the south-east are maintained from the front deck entry area. The proposal impacting on views of vegetation to the south-east is considered reasonable.*

An assessment of view impact for the current amended plans is as follows:

An objection was received from 67 Grandview Drive regarding view loss as a result of the proposed pavilion as amended. A site inspection was conducted at the objector's location on 05/04/2018 to conduct a view loss assessment based on the new amended plans.

An assessment of view loss was conducted by utilising the four step assessment as outlined within *Tenacity Consulting v Warringah* [2004] NSW LEC 1046.

**Step one assessed the views available to 67 Grandview Drive**

The most significant views are obtained when facing towards the south and southeast from the objector's site. The views consist of the ocean, headland areas, extensive vegetation and the Newport Town Centre. These views vary depending on where the view is obtained on the objector's site. There are also views to the east of trees and vegetation however are considered less significant in comparison to the views to the south and south-east.

**Step two determined the locations from which the views are obtained from 67 Grandview Drive**

The objector's ground floor living room obtains views to the south and south-east of substantial vegetation, the ocean and Newport Town Centre (heavily obscured by vegetation). These views are also obtained from the lower level containing a home office (or similar) and outdoor deck area.

The objector also obtains views of trees and considerable vegetation when facing east from the ground floor living room and outdoor entry patio.

**Step three assessed the extent of the impact on view sharing for the entire property**

When considering the height of the pavilion is approximately 1.05m above the existing roof level of the existing dwelling, the pavilion is not high enough to impact views from any position at the ground level of the objector's dwelling.

From the lower ground deck level of the objector's dwelling, the pavilion will obstruct views of trees and vegetation towards the east over the side boundary. This is shown in the photo below:



The majority of significant views towards the south-east from the ground floor and lower ground level, particularly the vegetation, ocean and structures in the distance are maintained.

The objector highlights the area at the most north-eastern section of the objector's site shall lose views of the ocean, trees and built structures to the south-east. This is considered to be true however this area is not considered to be a principal living area or principal private open space for the site. This particular area is currently undeveloped and the views to the south-east are enjoyed from the ground floor living room and lower level deck where the occupants would spend more practical time on site. In accordance with the planning principles associated with *Tenacity v. Warringah*, likely view loss from this site would be considered as minor.

#### **Step four assessed the reasonableness of the proposal causing the impact**

The proposal does not technically comply with the rear setback requirement, however the proposal is deemed to be reasonable given site slope constraints. Although the proposal is not compliant with the rear setback, the proposal was found to not obstruct views of high significance. The most significant views available to the objector within the ground floor living room facing south-east are reasonably maintained as the pavilion is not high enough to obstruct the most significant views of the ocean, built structures and vegetation.

The acceptance of the rear setback is further discussed in *D10.8 Side and rear building line (excluding Newport Commercial Centre)*. The view loss is considered reasonable.

- **C1.4 Solar Access**

Two objections were received concerning the original proposal's overshadowing impact and assessed as follows:

Objections raised by 63 Grandview Drive, Newport

The objector indicates their property is largely overshadowed presently due to the surrounding dwellings and vegetation. This is most likely due to large surrounding trees and dwellings situated north of Grandview Drive casting shadows southwards. The dwelling at 63 Grandview Drive is situated at a much lower ground level to 65 Grandview Drive and the dwellings beyond to the north. It is a reasonable assumption that substantial overshadowing is going to occur due to the topography of the site and the orientation of the surrounding dwellings, particularly those dwellings to the north of 63 Grandview Drive casting shadows southwards.

During the winter solstice, the dwelling at 63 Grandview Drive would receive the majority of sunlight between the hours of 9am to 12pm. Although the proposed additions does not cast a shadow on 63 Grandview Drive during 12:30pm to 3:00pm, the objector's dwelling is most likely overshadowed by the dwelling at 67 Grandview Drive as stated within their submission. Although this is the case, it should not be reason to prohibit the proposal. The proposed addition is not the primary cause of overshadowing to 63 Grandview Drive during the winter solstice and to refuse the addition on the basis of surrounding environmental factors is not supported.

Objections raised by 67 Grandview Drive, Newport

The objector indicates the proposed additions would overshadow their property during the hours of 9am to 12pm, particularly impacting their vegetation within the rear of the site. The proposed additions would cast a shadow on 67 Grandview Drive only during the hours of 9am to 12pm. The objector's rear yard would still however be overshadowed during other times of the day during the winter solstice due to the shadow cast from the objector's own dwelling and the shadow cast from 69 Grandview Drive.

The overshadowing is a result of the significant slope of the objector's site. The rear yard is located on much lower ground level in comparison to Grandview Drive. The topography of the site and the surrounding built environment is the key reason the objector's rear yard is overshadowed during the winter solstice. The proposed additions would overshadow the objector's rear yard only between the hours of 9am to 12pm. As the overshadowing is primarily due to the topography of the site, the proposal is not considered to be the sole cause for overshadowing towards the objector's site.

The Development Application was deferred by the Development Unit on 13/04/2017 to further investigate the overshadowing impact by the proposed pavilion and opportunities for improving solar access for 63 Grandview Drive. The applicant has provided an amended proposal and additional shadow diagrams.

No. 63 Grandview Drive has lodged an objection to the proposed amended development indicating the pavilion shall have an unreasonable overshadowing impact on the following areas:

Kitchen area located at the front of the dwelling and deck area at the front of the dwelling:



*Photo 1: Windows to the kitchen and outdoor deck area at the front of the dwelling.*

Covered deck area at the front of the dwelling adjoining the living room:



Photo 2: Covered deck area adjoining the living room at the front of the dwelling

No 67 Grandview Drive has lodged an objection to the proposed development indicating the pavilion shall overshadow their rear yard

In order to conduct an assessment of the overshadowing impact of the proposal, the solar access principles within *The Benevolent Society v Waverley Council [2010]* are referred to in order to assess the impact on solar access and the reasonableness of the proposal.

The next section outlines each of the solar access principals in *italics* and a response to each principle will be directly below:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

The subject site and surrounding area consists of low density residential dwellings on a steep trees south-east facing slope. The principle indicates sites with low densities may be highly vulnerable to overshadowing. The subject site's slope was measured to be approximately 45% from the north-west corner to the south-west corner.

It is reasonable to further develop 65 Grandview Drive with consequential additional overshadowing due to the steep topography. All properties nearby are considered highly vulnerable to overshadowing due to this steep topography.

Control C1.4 *Solar Access* requires the proposed development to provide a minimum of 3 hours of sunlight between 9am to 3pm on June 21<sup>st</sup> during the winter solstice to principal living areas and private open spaces.

Windows to principal living areas are to receive 3 hours of sunlight between 9am and 3pm on June 21<sup>st</sup> (a minimum of 50% of glazed areas of windows is required to receive direct solar access)

The applicant has provided 3D shadow diagrams showing the shadow cast hourly between 10am and 2pm on June 22<sup>nd</sup> towards the kitchen window and outdoor deck area of 63 Grandview Drive. The kitchen is considered a principal living area for the dwelling as this room receives the most solar access year round.

There are certain inaccuracies with the depiction of 63 Grandview Drive's dwelling and deck area within the 3D shadow diagrams. The front façade contains two windows to the kitchen area. It appears only one of these windows is portrayed in the shadow diagrams.

The roof over the front door entry is also transparent in certain areas, however this has no impact on the assessment as the door entry is not considered a principal living area in comparison to a kitchen or outdoor deck area.

#### **Amount of direct solar access currently received by 63 Grandview Drive**

Determining the exact level of solar access the kitchen windows and outdoor deck areas currently receives is difficult due to these areas being highly overshadowed by a large range of external factors such as large trees to the north-east of the objector's site, the dwellings at 65 and 67 Grandview Drive and the topographical slope of the site northwards of the objector's site.

During the hours between 9:00AM to 10:00AM, it is estimated the front of the objector's site only receives heavily filtered sunlight due to the large trees located north-east of the site within Council's road reserve. These trees are shown on the next page.



*Photo 3: Photo taken from the front of the objector's dwelling facing north-east. The trees in the distance within the road reserve heavily filter sunlight at 9AM to 10AM.*

During the hours between 10:00AM to 12:00PM, the existing dwelling at 65 Grandview Drive would overshadow the kitchen and outdoor deck areas.

It is estimated the objector's kitchen windows and outdoor deck areas only receive direct solar access during the hours of 12pm to 1pm (potentially to 1:30pm maximum) during winter.

The objector's dwelling is overshadowed by the dwelling at 67 Grandview Drive between approximately 1:30pm to 3:00pm.

For the purpose of this assessment, it is estimated the kitchen windows and outdoor deck area receives a maximum of 1.5 hours of direct solar access at 12:00PM to 1:30PM during the winter solstice.

#### **Amount of direct solar access received by 63 Grandview Drive with the proposed development**

The 3D shadow diagrams shows the kitchen window receives approximately two (2) hours of direct solar access on June 21<sup>st</sup> from 10am to 2pm, however the window does not receive solar access to 50% of the glazed area during this time period.

The deck area to the front of the dwelling receives portions of direct solar access during 10am to 2pm. Although this area is indicated to receive portions of solar access during this time, it is reasonable to conclude much of the front deck area at floor level is overshadowed during this time frame when examining the shadow diagrams provided.

It is concluded the kitchen windows and outdoor deck area does not currently receive the minimum 3 hours of direct solar access. The amount of solar access to the kitchen windows and outdoor deck during 12:00PM to 1:30PM is significantly reduced by the proposed development.

The amended proposal reduces the height of the pavilion by 1.05m and set back northwards by 1.2m. These amendments improve the visual scale of the works, however the 3D shadow diagrams indicate this would have a minimal impact on solar access to 63 Grandview Drive. The 3D shadow diagrams show the kitchen window and front deck receiving minor portions of sunlight during 12:00PM to 2:00PM.

#### **Overshadowing impact on 67 Grandview Drive**

The existing dwelling at 65 Grandview Drive currently overshadows the rear yard of 67 Grandview Drive during the hours of 9am to 10:30am approximately. The pavilion would increase the shadowing on the rear yard up to 12:00pm. The pavilion does not overshadow 67 Grandview Drive from 12:00PM and onwards.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

#### **Impact on private open space of 63 Grandview Drive**

This objector's private open space is the deck adjoining the kitchen at the front of the dwelling and the deck area adjoining the living room at the front of the dwelling. The site inspection found there are no outdoor areas at the rear of the dwelling which receives solar access. Therefore the front deck is considered the principal private open space.

The outdoor deck area is considered to currently receive a maximum of 1.5 hours of direct solar access during the hours of 12:00PM to 1:30PM on June 21<sup>st</sup>.

The proposed development would significantly impact the amount of solar access to this area. Although this area may still receive portions of solar access during 12:00PM to 1:30PM, the amount of solar access is significantly less than existing

#### **Impact on private open space of 67 Grandview Drive**

The proposed pavilion will cast a shadow on the rear yard of this site between the approximate hours of 9:00AM to 11:00AM. The objector indicates the rear yard is a highly valued outdoor area where a vegetable garden is maintained.

When examining the 2D shadow diagrams provided by the applicant, it can be concluded the pavilion does not overshadow the objector's site from 12:00PM and onwards. The objector's rear yard is overshadowed by the objector's own dwelling at 12:00PM and onwards. This indicates the pavilion is only responsible for the overshadowing of the objector's rear yard between the hours of 9:00AM to 11:00AM. Therefore the proposal is not considered to have an unreasonable impact on the 67 Grandview Drive in this context.

## Discussion

Although the proposal causes additional overshadowing towards 63 Grandview Drive, the proposal is considered a reasonable design given the proposal complies with the maximum height limit of 8.5m (7.45m) and is situated within the required building envelope. As discussed in *D10.8 Side and rear building line*, the proposal can be deemed to meet the outcomes of this control with regards to the rear setback when considering the topographical constraints and irregular shape of the lot.

It is also important to highlight the proposed pavilion is not the sole cause of overshadowing to adjoining properties. This objector's sites are heavily overshadowed by trees and vegetation, the existing dwellings at 65 and 67 Grandview Drive, and the steep south-east topography north of the locality.

Alternative areas to locate the pavilion are not suitable. An additional level on top of the existing dwelling would possibly breach the height limit and appear excessive. An extension of the dwelling to the east would result in a non-compliance with the front setback requirement and would have consequences regarding the provision of parking on site. The area to the south of the dwelling is significantly sloping and is not considered a suitable area for an extension to the dwelling. These alternatives would result in substantial additional cost to the applicant which is contrary to the aims of the principle and would likely not improve solar access to neighbours.

The Commissioner within *Parsonage v Ku-ring-gai [2004]* stated the following:

*The impact on a neighbour's sunlight must be assessed in the context of the reasonable development expectations of the proposal and the constraints imposed by the topography and the subdivision pattern.*

The proposal is found to be reasonable as it complies with all controls except the rear setback control and the required landscaped area. The site is heavily constrained due to its sloping nature and the location of the pavilion would inevitably result in a breach of the front or rear setback requirement regardless of where it is located on site.

The pavilion is below the maximum height limit and is situated within the required building envelope. The pavilion is measured to be approximately 1.05m above the existing dwelling and therefore not considerably higher than the existing roof line of the existing dwelling.

The amount of solar access received outside of winter is also required to be examined to determine the reasonableness of the proposal. The 3D shadow diagrams from Feb 22<sup>nd</sup> to May 22<sup>nd</sup> show the kitchen window and front deck area receives solar access during this period of the year. The proposal does not lead to a complete loss of solar access to the kitchen and deck areas throughout the entire year.

It is considered unreasonable for the development to preserve sunlight to the kitchen and deck areas given the highly vulnerable position of 63 Grandview Drive. To refuse the proposal would severely limit the reasonable development of the site in circumstances where the steep treed south facing slope is the primary constraint.

- **C1.5 Visual Privacy**

**Objections raised by 67 Grandview Drive regarding visual privacy**

Objections were raised regarding the lack of privacy screening on the western side of the balcony adjoining the pavilion. The following condition is considered sufficient to alleviate the privacy concern from this area:

*B4 - A 1.8m privacy screen shall be positioned on the western side of the deck adjoining the pavilion*

The objector also raised concerns regarding the windows W2, W3 and W4 on the northern elevation of the pavilion. After having conducted a site inspection, these windows would overlook the north-eastern corner of this objector's site, however there are no principal living areas or primary open spaces in this area.

The area in concern is an outdoor space used for drying clothes. The objector's lower ground level deck and rear yard are considered to be the primary open spaces where the objectors would spend more active hours on site. The windows are also necessary to provide solar access to the top floor living room and removing these windows would severely decrease the amenity of this room.

Windows W1 and W6 on the western elevation are conditioned to be frosted glass to alleviate visual privacy concerns between 65 and 67 Grandview Drive:

*B3 - Windows W1 and W6 on the western elevation of the pavilion shall be frosted glass*

**Objections raised by 63 Grandview Drive regarding visual privacy**

The objector is concerned the occupants of the subject site will have the ability to overlook the objector's kitchen and deck area in front of their dwelling. The objector indicates the extension of the existing deck to the south of the dwelling will have an unreasonable overlooking impact towards their site. The objector indicates the removal of the two Norfolk Pine trees decreases visual privacy between the neighbours.

A site inspection was conducted at 65 Grandview Drive where the Assessment Officer stood on the existing deck in concern. The Norfolk Pine trees are not considered to provide sufficient privacy between 63 and 65 Grandview Drive as the canopy of the trees is higher than the ground floor level of the deck.

The extension of the deck is not thought to further exacerbate visual privacy issues. A condition for the balustrade to be frosted glass shall be imposed to alleviate visual privacy between the two neighbours.

The objector is concerned the pavilion shall overlook their kitchen and outdoor deck area. The pavilion contains an outdoor balcony on the top floor. To alleviate the visual privacy concern, the balustrade to this balcony shall also be conditioned to be frosted glass.

The pavilion is approximately 12.0m from the objector's dwelling and therefore meets the requirements of this control. The proposal's impact on visual privacy is considered reasonable with the relevant conditions imposed.

- **C1.14 Separately Accessible Structures**

A submission raised concerns as to whether the pavilion could be used as a separate habitable space. To ensure the pavilion is not used as a secondary dwelling, a condition shall be imposed for kitchen facilities to be prohibited within the pavilion.

- **D10.1 Character as viewed from a public place**

An objector indicates the proposal can be viewed from Grandview Drive. This is particularly true when ascending Grandview Drive however the bulk and scale is not considered excessive. Recent tree clearing has made the proposed development more visually apparent, however the height and width of the proposal is not considered excessive to warrant a condition for screening at the rear adjoining the road reserve adjacent to Grandview Drive.

- **D10.4 Building colours and materials**

After considering the schedule of finishes submitted to Council, the dwelling would appear to be two separate dwellings as the existing dwelling is white and the proposed pavilion is dark grey. A condition shall be imposed for the external finishes of the pavilion to match the existing dwelling.

- **D10.8 Side and rear building line (excluding Newport Commercial Centre)**

An objection was raised by 67 Grandview Drive regarding the 1.0m setback to the western boundary and requests a minimum setback of 2.8m. The objector indicates the minimum rear setback requirement of 6.5m is not achieved.

After having reviewed the amended proposed plans, the western boundary is considered the rear boundary. The vehicle and pedestrian access to the site is from the east of the site and the front of the dwelling is orientated to the east.

Although the proposal breaches the rear setback requirement of 6.5m, the proposal is supported. The structure is considerably below the height limit and within the building envelope. The pavilion is set back 1.0m from the western boundary, however the setback distance varies from 1.0m to 4.4m as the western boundary descends to the south-west. The scale of the pavilion is not considered excessive in comparison to the existing dwelling on the subject site and the neighbouring dwelling at 67 Grandview Drive.

The proposal does not lead to an unreasonable loss of view sharing for the objector (see *C1.3 View Sharing*)

The pavilion will contain several conditions for privacy screening and frosted windows to alleviate privacy concerns between the adjoining neighbours (see *C1.5 Visual Privacy*)

Due to the topographical constraints of the site, the location of the pavilion is considered reasonable. Locating the pavilion to the east of the site would lead to a breach of the front

setback requirement and would lead to a loss of off-street parking. The area south of the dwelling is unsuitable due to the significant slope of the site.

Although the proposal may not meet the required technical control of providing a 6.5m setback, the proposal is considered to meet the outcomes of the control and the proposal is supported.

- **D10.11 Building Envelope (excluding Newport Commercial Centre)**

Objections were originally raised concerning the pavilions breach in building envelope. The reduction of the height of the pavilion has resulted in the pavilion being situated within the building envelope and therefore complies with the control.

- **D10.13 Landscaped Area – Environmentally Sensitive Land**

The site area is listed as 505m<sup>2</sup>. The proposed landscaped area was measured to be approximately 299m<sup>2</sup> (59.21%). The required landscaped area is a minimum of 60% and the non-compliance is minor.

- **D10.16 Construction, Retaining walls, terracing and undercroft areas**

An objection from 63 Grandview Drive raised concerns regarding the replacement of the retaining walls not being indicated on the submitted plans.

The Geotechnical Risk Management Report (prepared by White Geotechnical Group, Ref J0818B, dated 22/12/2017) states the retaining walls supporting the driveway to the dwelling is failing. Therefore regardless of the proposed development, replacement of this retaining wall is necessary. Conditions have been imposed for the recommendations of the geotechnical report to be fulfilled.

## 9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed at item 3.0.

The proposal is considered reasonable given the surrounding sites are heavily overshadowed by trees, vegetation, neighbouring dwellings and the steep south-east facing topography north of the locality. The pavilion is below the maximum height limit of 8.5m (7.45m at highest point), within the building envelope and appropriate in scale.

The proposal has been found to be consistent with the outcomes of the relevant controls of P21 DCP. The proposal is considered to be consistent with the existing character of Newport and the desired future character of the Newport Locality. As a result of these considerations the proposal is recommended for approval.

**RECOMMENDATION OF DEVELOPMENT OFFICER / PLANNER**

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0595/16 for the alterations and additions at 65 Grandview Drive, Newport subject to the conditions of consent.

Report prepared by

Christopher Nguyen  
**PLANNER**

Date: 11 April 2018

**Plans and Documents:**

- **Architectural drawings prepared by Peter Downes, 1519 01 A through to 1519 07 A, all dated 16/11/2017;**
- **Geotechnical Risk Management Report Addendum, prepared by White Geotechnical Group, Ref J0818B, dated 22/12/2017;**
- **Geotechnical Risk Management Report, J0818A, prepared by White Geotechnical Group, dated 19/12/16;**
- **Arborist Report, 65 Grandview Drive, Newport, prepared by Malcolm Bruce, dated 20/06/2016;**
- **BASIX Certificate, A269754\_02, dated 07/02/2018**

### Conditions of Approval

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

#### A. Prescribed Conditions:

1. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
3. A sign must be erected in a prominent position onsite only showing:
  - a) the name, address and telephone number of the Principal Certifying Authority for the work, and
  - b) the name of the principal contractor or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - c) that unauthorised entry to the work site is prohibited.The sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
4. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - a) in the case of work for which a principal contractor is required to be appointed:
    - i) The name and licence number of the principal contractor, and
    - ii) The name of the insurer by which the work is insured under Part 6 of that Act.
  - b) in the case of work to be done by an owner-builder:
    - i) The name of the owner-builder, and
    - ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
  - c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under a or b above becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information

5. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
6. Any building work in relation to the development consent is to be carried out in accordance with the requirements of the Building Code of Australia.

**B. Matters to be incorporated into the development and maintained over the life of the development:**

1. The commitments identified in the BASIX Certificate and on the plans or specifications are to be fulfilled and maintained for the life of the development.
2. The balustrade around the proposed deck adjoining the pavilion shall be frosted glass.
3. Windows W1 and W6 on the western elevation of the pavilion shall be frosted glass.
4. A 1.8m privacy screen shall be positioned on the western side of the deck adjoining the pavilion.
5. The provision of cooking facilities within the pavilion are prohibited in order for the structure to not be used for the purposes of separate habitation.
6. The balustrade around the deck adjoining the existing dwelling on the southern side shall be frosted glass
7. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.
8. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report prepared by The White Geotechnical Group Pty Ltd dated 22 December 2017 are to be incorporated into the construction plans.
9. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for noxious/environmental weed lists.
10. No environmental weeds are to be planted on the site. Refer to Council website [www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds) for environmental weed lists.
11. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland or foreshore, unrestrained, on the site or on surrounding properties or reserves. Ferrets and rabbits are to be kept in a locked hutch/run at all times.

12. Any vegetation planted onsite outside approved landscape zones is to be consistent with:
  - a) Species listed in the Ecological Sustainability Plan or Bushland Management Plan (if applicable)
  - b) Species listed from the Endangered Ecological Community
  - c) Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden available on the Council website [http://www.pittwater.nsw.gov.au/environment/species\\_lists](http://www.pittwater.nsw.gov.au/environment/species_lists)
  
13. At least six (6) locally native canopy trees which will mature at a height no less than 8.5 metres are to be planted onsite to replace trees approved for removal. Canopy tree species are to be selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and the Native Gardening link on Council's website [http://www.pittwater.nsw.gov.au/environment/species\\_lists](http://www.pittwater.nsw.gov.au/environment/species_lists). All native trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.
  
14. No building materials or other materials are to be placed on Bushland vegetation. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
  
15. As part of an integrated on-site stormwater management system a minimum 4500 litre on-site detention tank is to be installed, operated and maintained in association with the development.
  
16. As part of the integrated stormwater management plan, suitably positioned stormwater quality improvement devices shall be installed and operated in accordance with Manufacturer's Specifications and associated operational guidelines.
  
17. The stormwater quality improvement devices shall be maintained and emptied of spoil materials at regular intervals. Spoil materials removed from the stormwater quality improvement devices shall be disposed of as dry household mixed waste.
  
18. As part of the integrated on-site stormwater management system, stormwater from the on-site detention system is to be discharged directly to the kerb and gutter or piped drainage system via an interallotment drainage easement within adjacent private property in accordance with report of The White Geotechnical Group.
  
19. The land is an identified landslip area. On-site infiltration systems are not permissible.
  
20. As part of an integrated on-site stormwater management system, stormwater is to be discharged by direct connection into the adjacent street pit and pipe drainage system in accordance with report of Taylor Consulting Engineers, dated 20 December 2016
  
21. The internal driveway finish is:
  - a) to be a stable surface for all weather conditions
  - b) to be constructed of materials that blend with the environment and are of dark or earthy tones or natural materials.

22. In accordance with Pittwater 21 DCP Control B4.22 Protection of Trees and Bushland Vegetation, all existing trees as indicated in the Survey Plan and/or approved Landscape Plan shall be retained except where Council's prior written consent has been obtained, for trees that stand within the envelope of approved development areas and removal is approved through an arborist report. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
23. The finished surface materials, including colours and texture of any building, shall match the detail and materials of the existing building.

**C. Matters to be satisfied prior to the issue of the Construction Certificate:**

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Plans and details demonstrating that the commitments identified in the BASIX Certificate that apply to the construction certificate or complying development plans and specifications are fulfilled.
2. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above are to be submitted to the Principal Certifying Authority.
3. The Principal Certifying Authority must be provided with a copy of plans that a Quick Check agent/Sydney Water has stamped before the issue of any Construction Certificate.
4. The person having the benefit of this consent is required to notify the Principal Certifying Authority to ensure that the following critical stage inspections are undertaken, as required under clause 162A(4) of the Environmental Planning and Assessment Regulation 2000:
  - a) after excavation for, and prior to the placement of, any footings, and
  - b) prior to pouring any in-situ reinforced concrete building element, and
  - c) prior to covering of the framework for any floor, wall, roof or other building element, and
  - d) prior to covering waterproofing in any wet areas, and
  - e) prior to covering any stormwater drainage connections, and
  - f) after building work has been completed and prior to any occupation certificate being issued in relation to the building.

To allow a Principal Certifying Authority to carry out critical stage inspections, at least 48 hours notice must be given before building work is commenced and prior to further work being undertaken.

5. Construction works approved by this consent must not commence until:
  - a) Construction Certificate has been issued by a Principal Certifying Authority
  - b) a Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
  - c) at least 2 days notice, in writing has been given to Council of the intention to commence work.
  
6. In accordance with section 34 of the Building and Construction Industry Long Service Payments Act 1986, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
  
7. A Construction Traffic Management Plan (CTMP) prepared by a suitably qualified traffic consultant is required prior to the issue of the Construction Certificate.

The plan is to address and detail arrangements regarding:

- Detail concerning delivery and removal of all materials
- Proposed traffic routes, noting that 3 tonne load limits apply to some roads within the Northern Beaches Council Local Government Area
- Location and extent of on/off site parking for construction workers during the construction period.
- The details of any proposed on street parking changes/ future work zone applications (subject to additional approvals).
- Proposed hours of operation

The CTMP must be approved in writing by Council prior to the issue of any Construction Certificate.

8. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
  
9. Engineering plans including specifications and details of the on-site stormwater detention system, are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.7 of Pittwater 21 DCP.

Note: Where Council is the Principal Certifying Authority, 3 sets of engineering plans are to be submitted.

10. Drainage plans including specifications and details showing the site stormwater management are to be submitted to the Accredited Certifier with the Construction Certificate application. Such details are to be accompanied by a certificate from (as appropriate) either a Licensed plumber or qualified practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E), or who is eligible to become a Corporate member and has appropriate experience and competence in the related field, that the stormwater management system complies with the requirements of section 3.1.2 Drainage of the Building Code of Australia Housing Provision and AS/NZS 3500.3.2 - Stormwater Drainage. The details shall include disposal of site stormwater (if the site is in a known slip area the stormwater disposal system must comply with the recommendations of a Geotechnical Engineers Report).

Note: Where Council is the Principal Certifying Authority 3 sets of plans/specifications are to be submitted.

11. Engineering plans including specifications and details of all the elements of the stormwater drainage system are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Such details are to be accompanied by a certification by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with B5.14 of Pittwater 21 DCP.

Note: Where Council is the Principal Certifying Authority, 3 sets of engineering plans are to be submitted.

12. Plans and details demonstrating that the following issues have been addressed are to be submitted to the Accredited Certifier with the Construction Certificate application.
  - a) Driveway profiles must be obtained from Council for all access driveways across the public road verge to road edge. The driveway profiles provided by Council must be incorporated into and attached to design plans for the access driveway and internal driveway.
  - b) A Deed of Agreement indemnifying Council must be entered into for construction of a cosmetic access driveway across the public road verge (i.e. other than a plain concrete finish).
  - c) All construction of the access driveway across the public road verge must be undertaken by a Council authorised contractor.
  - d) Council's Fees and Charges apply to driveway profiles and Deed of Agreement for Access Driveway.
13. Applicants will be required to obtain prior to the issue of a Construction Certificate, a Section 139 Consent for Works on a Public Road Reserve issued by the Council under the provisions of Section 138 of the *Roads Act 1993* for the design and construction of any works located on the road reserve including Access Driveways.
14. Civil engineering details of the proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

15. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
16. The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

**D. Matters to be satisfied prior to the commencement of works and maintained during the works:**

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

Note: This condition does not apply in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the States building laws.

2. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 The Demolition of Structures.

Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.

Council is to be given 48 hours written notice of the destination/s of any excavation or demolition material. The disposal of refuse is to be to an approved waste disposal depot.

3. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
4. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.
5. A copy of the CTMP approved under Part C of this consent is to be retained on site for the duration of the demolition/construction works.

6. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
7. Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must preserve and protect the building from damage and, if necessary, underpin and support the adjoining building in an approved manner.
8. Temporary sedimentation and erosion controls are to be constructed prior to commencement of any work to eliminate the discharge of sediment from the site.
9. Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.
10. An all weather accessway at the front of the property consisting of 50-75mm aggregate or similar material at a minimum thickness of 200mm and 15metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.
11. Adequate measures shall be undertaken to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
12. The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations
13. To minimise soil erosion and sediment movement during construction, the following measures shall be implemented.
  - o Removal and/or disturbance of vegetation shall be confined to the basal area of the approved building, the site(s) of access ways, land extending a maximum of two metres beyond the outermost projection of the approved building and within a total of two metres of service trenches (that is the sum of the two sides to be a maximum of two metres).
  - o Topsoil stripped from the construction site shall be stockpiled and protected from erosion until re-use during landscaping. Soil is to be retained within the property.
  - o Stockpiles of construction and landscaping materials, and of site debris, shall be located clear of drainage lines and in such a position that they are protected from erosion and do not encroach upon any footpath, nature strip or roadway.
  - o Final site spoil shall be disposed of to conform to the specifications and standards quoted and to any conditions of approval of those measures.
  - o Trenches shall be backfilled, capped with topsoil and compacted to a level at least 75 mm above adjoining ground level.
  - o Stormwater from roof areas shall be linked to a council approved stormwater disposal system immediately before placement of any roofing materials.
  - o Vehicular access shall be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on adjoining roadways the same shall be removed by means other than washing. All material is to be removed as soon as

possible and the collected material is to be disposed of in a manner that will prevent its mobilisation.

- Vehicular access paths shall be stabilised.
- All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for more than 14 days or other such period as may be approved after earthworks cease. All driveways and parking areas shall be stabilised with compacted sub-grade as soon as possible after their formation.

14. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.

15. The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
16. No works are to be carried out in Council's Road Reserve without the written approval of the Council.  
Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc.), and landscaping works within Council's Road Reserve.
17. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
18. No skip bins or materials are to be stored on Council's Road Reserve.
19. A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
20. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
- a) The builder's name, builder's telephone contact number both during work hours and after hours.
  - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
  - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development

of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.

- d) That no skip bins or materials are to be stored on Council's Road Reserve.
  - e) That the contact number for Northern Beaches Council for permits is 9970 1111.
21. As there are existing trees to be retained within 5 metres of proposed development works, all recommendations as outlined in the supplied arborist report by Malcolm Bruce, dated 20/6/16 are required to be complied with before and throughout the development period, particularly with regard to the following:
- a) Works, erection/demolition of structures, excavation or changes to soil levels within 5 metres of existing trees are not permitted unless part of the development as approved, and the storage of spoil, building materials, soil or the driving and parking of any vehicle or machinery within 5 metres of the trunk of a tree to be retained is not permitted;
  - b) Where specified, tree guards are to be provided to all trees as indicated in the report, and are to be installed prior to the commencement of any work on the site. Tree guard materials and dimensions are specified in the arborist report;
  - c) All works within 5 metres of existing trees including demolition, excavation, civil works, fencing and the like must be carried out by hand and under the supervision of an experienced and suitably qualified arborist. In the event that major structural or feeder roots are encountered, the arborist is to advise the builder to carry out appropriate action to ensure the retention of the tree.
  - d) Signage is to be erected advising all contractors and visitors to the site that no works or storage are to take place within the dripline of existing trees.
  - e) Any changes or alterations made to the tree management recommendations as outlined by the arborist report due to the discovery of new structural roots or underground services during development works must be reported to the Principal Certifying Authority prior to works recommencing.
22. No storage of building materials or building waste, excavated fill or topsoil storage is to occur within the dripline of trees shown on the approved landscape working drawing(s) as being retained or within protective fenced areas.

Drainage is to be arranged such that fill, building materials or contaminants are not washed into protective fenced areas.

#### **E. Matters to be satisfied prior to the issue of Occupation Certificate:**

Note: Prior to the issue of an Occupation Certificate the principal certifying authority is to ensure that Council's assets, including road, kerb and gutter and drainage facilities adjacent or near to the site have not been damaged as a result of the works. Where such damage has occurred, it is to be repaired to Council's written satisfaction prior to the issue of an Occupation Certificate or suitable arrangements put in place to effect those repairs at a future date to Council's written satisfaction. Should this process not be followed, Council will pursue action against the principal accredited certifier in relation to the recovery of costs to effect such works.

Note: It is an offence to occupy the building or part thereof to which this consent relates prior to the issue of an Occupation Certificate.

1. Certification is to be provided that the commitments identified in the BASIX Certificate have been fulfilled.
2. An Occupation Certificate application stating that the development complies with the Development Consent, the requirements of the Building Code of Australia and that a Construction Certificate has been issued must be obtained before the building is occupied or on completion of the construction work approved by this Development Consent.
3. All existing and /or proposed dwellings/sole occupancy units are to have approved hard-wired smoke alarms installed and maintained over the life of the development. All hard-wired smoke alarms are to be Australian Standard compliant and must be installed and certified by any appropriately qualified electrician prior to the issue of any Occupation Certificate.
4. Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
5. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.  
  
A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.
6. The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.  
  
A plan showing pipe locations and diameters of the stormwater drainage system, together with certification by a Licensed Plumber or qualified practicing Civil Engineer that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards must be provided.
7. Certification is to be provided to the Principal Certifying Authority by a qualified experienced practicing Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a member and has appropriate experience and competence in the related field, that the stormwater drainage system has been completed in accordance with the engineering plans and specifications required under this consent.
8. The applicant must obtain written confirmation from Council that all works in the road reserve have been completed in accordance with the conditions of the Roadworks Permit
9. Prior to issue of the Occupation Certificate, Form 3 of the *Geotechnical Risk Management Policy* is to be completed and submitted to the Principal Certifying Authority.

10. The applicant must prepare and submit a post-construction dilapidation report. The report must clearly detail the final condition of all property, infrastructure, natural and man-made features that were originally recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.
11. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the Private Certifying Authority with the Occupation Certificate application.
12. Prior to the commencement of construction works, all tree protection recommendations in particular the establishment of tree protection zone fencing as specified in the approved Arborist Report (Malcolm Bruce, 20/6/16) are to be certified by the consulting arborist as being adequate and in accordance with the specifications of AS 4970 ~ 2009 Protection of Trees on Construction Sites. Certification is to be provided to the certifying body prior to the issue of the Occupation Certificate.

#### G. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. Dial before you dig: Prior to excavation the applicant is advised to contact Australia's National Referral Service for Information on Underground Pipes and Cables telephone 1100 or [www.1100.com.au](http://www.1100.com.au)
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the EPA Act 1979, this development consent lapses 5 years after the date from which this consent operates if the development is not commenced.
5. To ascertain the date upon which a consent operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. Should any of the determination not be acceptable, you are entitled to request reconsideration under Section 82A of the *Environmental Planning and Assessment Act, 1979*. Such request to Council must be made in writing, together with appropriate fees as advised at the time of lodgement of such request, within 6 months of the determination.
7. If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act, 1979*, gives you a right of appeal to the Land and Environment Court within 6 months of the date of endorsement of this Consent.

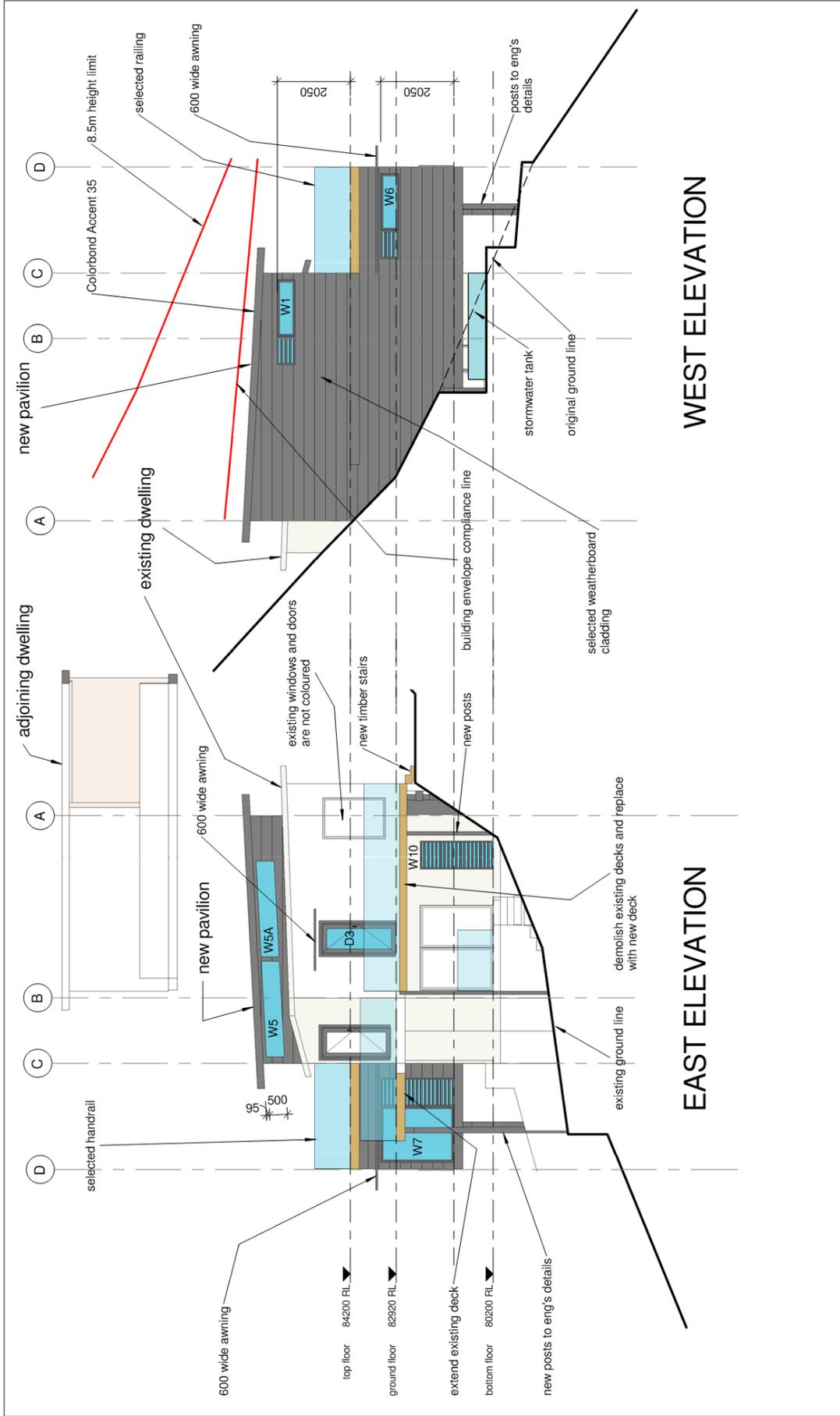
8. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.



**SITE DATA.**

- total site area = 504.7 m<sup>2</sup>
- landscaping = 307.1 m<sup>2</sup> = 60.8 %
- existing floor space = 127.2 m<sup>2</sup>
- new floor space = 81.0 m<sup>2</sup>
- total floor space = 208.2 m<sup>2</sup>

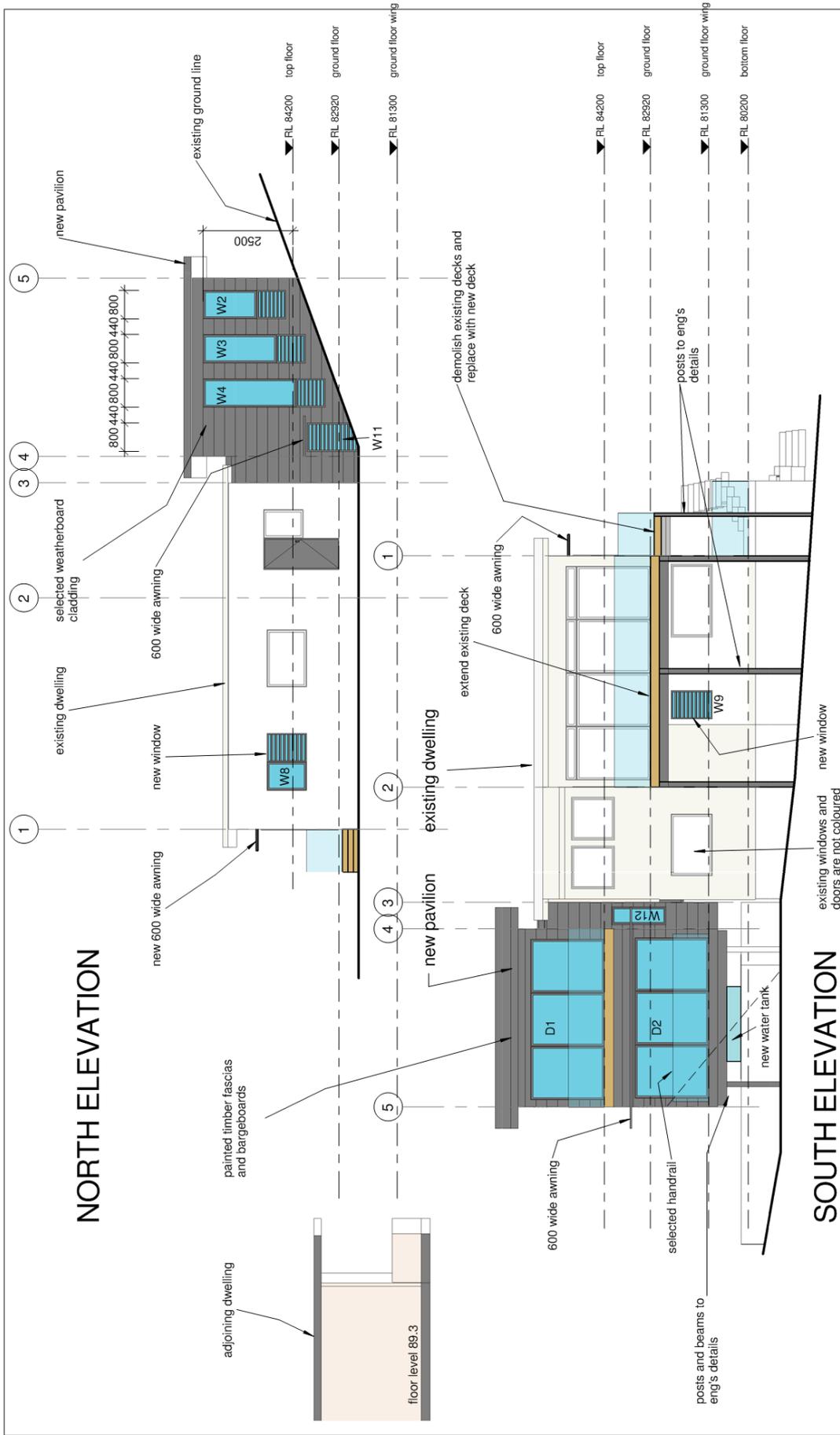
REVISION	REV A 16.11.2017	NEW PAVILION LOWERED BY 1200 AND MOVED 1230 NORTH	WINDOWS W1, W2, W3, W4, W5, W5A, W7, W11 ALTERED
<p>address 77 Riviera rd, Avalon 2017 phone 9973 3312 www.peterdownes.com</p>		<p>alterations and additions to an existing dwelling at 65 Grandview drive, Newport</p>	
<p>site plan</p>		<p>DRAWING</p>	
<p>DRG. No. A3</p>		<p>CHECKED PD DATE 13/12/16</p>	
<p>SCALE 1 : 200</p>		<p>DRAWN PD</p>	



WEST ELEVATION

EAST ELEVATION

REVISION	REV A 16.11.2017	NEW PAVILION LOWERED BY 1200 AND MOVED BY 1200 NORTH	WINDOWS W1, W2, W3, W4, W5, W5A, W7, W11 ALTERED
<p>address 77 Riviera rd, Avalon 2017 phone 9973 3312 www.peterdownes.com</p>			
PROJECT		alterations and additions to an existing dwelling at 65 Grandview drive, Newport	
DRAWING	east and west elevations		DRG. No. A3
DRAWN	CHECKED	SCALE	DATE
PD	PD	1 : 100	13/12/16
			15 19 05 A



<p>alterations and additions to an existing dwelling at 65 Grandview drive, Newport</p>	<p>CHECKED PD</p>	<p>DATE 13/12/16</p>
	<p>DRAWN PD</p>	<p>SCALE 1 : 100</p>
<p>DRG. No. A3</p>		<p>15 19 06 A</p>
<p>north and south elevations</p>		
<p>address 77 Riviera rd, Avalon 2017 phone 9973 3312 www.peterdownes.com</p>		
<p>REVISION</p>		
<p>REV A 16.11.2017</p>		
<p>NEW PAVILION LOWERED BY 1200 NORTH WINDOWS W1, W2, W3, W4, W5, W5A, W7, W11 ALTERED</p>		
<p>ppd BUILDINGS DESIGNERS AUSTRALIA NSW</p>		